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The Shrinking Space for Democratic Dissent in India: A Constitutional Analysis of Freedom of Speech, the Right to Protest, and State Power

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Dissent is not merely a political act but a constitutional value that lies at the heart of every democratic society. The Indian Constitution envisages a participatory democracy in which citizens possess the freedom to question governmental policies, peacefully assemble and express disagreement without fear of arbitrary State action. However, contemporary India has witnessed increasing debates concerning restrictions on public protests, regulation of speech, preventive policing, internet shutdowns and the expanding use of criminal law in matters involving public dissent. These developments have generated important constitutional questions regarding the balance between individual liberty and the State's responsibility to maintain public order. This article critically examines the constitutional framework governing democratic dissent in India by analysing Articles 14, 19, 21, 32 and 226 of the Constitution of India, alongside the doctrine of proportionality and judicial review. It further evaluates the legality of restrictions imposed upon protests through the Bharatiya Nyaya Sanhita, 2023 (BNS) and the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), while examining landmark decisions of the Supreme Court of India. Rather than treating dissent as a threat to governance, the article argues that peaceful disagreement constitutes an indispensable feature of constitutional democracy. While the State undoubtedly possesses the authority to regulate assemblies in the interests of public order and national security, such regulation must remain proportionate, transparent, accountable and consistent with constitutional guarantees. The legitimacy of a constitutional democracy ultimately depends not merely upon electoral majorities but also upon its willingness to protect the voices that disagree with those in power.

Keywords: *democratic dissent, speech, protest, article 19, public order.*

INTRODUCTION

India's constitutional democracy was founded upon the ideals of justice, liberty, equality and fraternity. These constitutional promises were never intended to remain confined to the electoral process alone. Rather, the Constitution envisages an active citizen capable of questioning governmental action, participating in public discourse and demanding accountability through peaceful democratic means. Democracy, therefore, is not sustained merely by periodic elections; it flourishes through continuous public participation and the freedom of citizens to disagree with those exercising governmental power. Consequently, dissent occupies a central position within the constitutional order rather than existing as an exception to it.

The history of India's democratic development illustrates that peaceful public movements have frequently contributed to constitutional and legislative reforms. From the freedom struggle against colonial rule to movements concerning environmental protection, women's rights, anti-corruption campaigns, farmers' issues and educational reforms, public dissent has consistently served as a mechanism through which citizens communicate grievances and influence public policy. Democratic disagreement has therefore functioned not as an obstacle to governance but as an instrument of constitutional accountability.

Nevertheless, constitutional democracies cannot function without maintaining public order. The Constitution itself recognises this reality by permitting reasonable restrictions upon certain fundamental freedoms. Consequently, the constitutional challenge is not whether restrictions may be imposed, but whether such restrictions satisfy constitutional standards of legality, necessity, proportionality and procedural fairness. Every exercise of State power affecting civil liberties must therefore remain subject to constitutional scrutiny rather than political convenience.

In recent years, India has witnessed increasing constitutional debates concerning the regulation of protests, restrictions upon public assemblies, preventive policing, internet shutdowns, criminal prosecution of demonstrators and judicial responses to public movements. Simultaneously, differing narratives presented by governmental authorities,

independent media organisations and civil society have generated wider discussions regarding the constitutional limits of State power. These developments do not merely raise political questions; they invite serious constitutional examination concerning the relationship between liberty and authority within a democratic State.

This article therefore seeks to examine democratic dissent through a constitutional lens rather than through partisan political narratives. It analyses whether contemporary regulation of speech and public protest continues to preserve the constitutional balance envisioned by the framers of the Constitution or whether emerging legal practices require closer judicial and legislative scrutiny to ensure the continued protection of democratic freedoms.

CONSTITUTIONAL PHILOSOPHY OF DEMOCRATIC DISSENT

Although the Constitution of India does not expressly employ the word "dissent," its constitutional architecture unmistakably reflects the importance of disagreement within democratic governance. The Preamble guarantees liberty of thought and expression, while the chapter on Fundamental Rights provides institutional mechanisms through which citizens may question governmental authority. A democracy that constitutionally guarantees liberty but discourages criticism would reduce constitutional rights to symbolic declarations without practical significance.

Dr B.R. Ambedkar repeatedly emphasised during the Constituent Assembly Debates that constitutional democracy could survive only where governmental authority remained subject to constitutional limitations rather than unquestioned political power. He warned that constitutional methods must replace extra-constitutional methods and that public institutions must remain accountable to the people. Constitutional morality, according to Ambedkar, requires respect not only for constitutional institutions but also for the liberties that enable citizens to question those institutions whenever necessary.¹ Peaceful criticism of governmental action, therefore, cannot be regarded as anti-democratic; rather, it forms one of the essential conditions upon which democratic accountability depends.

The framers consciously rejected authoritarian models of governance and instead adopted a constitutional framework founded upon limited government, separation of powers, judicial

¹ 'Constituent Assembly Debates On 9 December, 1948' (*Indian Kanoon*)
<<https://indiankanoon.org/doc/145944/>> accessed 13 June 2026

review and enforceable fundamental rights. Articles 32 and 226 empower constitutional courts to review executive and legislative action whenever fundamental freedoms are threatened. Judicial review thus functions not merely as a procedural safeguard but as an institutional guarantee that democratic dissent remains protected against arbitrary exercise of State power.

Accordingly, democratic dissent should not be viewed as a concession granted by the State. It flows directly from constitutional guarantees of liberty, equality and the rule of law. The strength of a constitutional democracy is measured not by the absence of criticism but by its willingness to protect peaceful criticism within the framework of law.

CONSTITUTIONAL FOUNDATIONS OF FREEDOM OF SPEECH AND THE RIGHT TO PROTEST

The Constitution does not explicitly confer a separate "right to protest". Nevertheless, constitutional jurisprudence has consistently recognised that such a right emerges from the combined operation of Articles 19(1)(a), 19(1)(b), 19(1)(c), 21 and the broader constitutional commitment to democratic participation. These provisions collectively create the legal foundation upon which citizens may express disagreement, organise collective action and peacefully assemble against governmental policies.

Freedom of Speech and Expression under Article 19(1)(a): Article 19(1)(a) guarantees every citizen the fundamental right to freedom of speech and expression. The Supreme Court has repeatedly described this freedom as the foundation of democratic governance because meaningful public participation becomes impossible where citizens cannot openly discuss governmental policies or express dissenting opinions.²

The constitutional protection extends beyond spoken or written words. It includes symbolic expression, peaceful demonstrations, artistic works, digital communication and every legitimate medium through which ideas are communicated. At the same time, Article 19(2) permits the State to impose reasonable restrictions in the interests of sovereignty and integrity, security of the State, friendly relations with foreign States, public order, decency, morality, contempt of court, defamation and incitement to an offence.

² *The Secretary, Ministry of Information and Broadcasting v Cricket Association of Bengal & Anr* (1995) 2 SCC 161

The existence of Article 19(2) demonstrates that constitutional freedoms are not absolute. However, the Supreme Court has consistently held that restrictions cannot become a means of suppressing legitimate criticism. The expression "reasonable restriction" itself requires that limitations remain narrowly tailored, non-arbitrary and proportionate to the objective sought to be achieved. The early constitutional jurisprudence of the Supreme Court firmly established this principle. In *Romesh Thappar v State of Madras*,³ the Court recognised freedom of speech as the foundation of every democratic organisation and held that political discussion occupies a preferred constitutional position. Shortly thereafter, in *Brij Bhushan v State of Delhi*,⁴ the Supreme Court invalidated pre-censorship imposed upon a newspaper, observing that prior restraint upon publication strikes at the very heart of democratic expression. These decisions laid the constitutional foundation upon which later jurisprudence concerning free speech was developed.

Decades later, the Supreme Court reaffirmed this liberal constitutional tradition in *Shreya Singhal v Union of India*,⁵ while striking down Section 66A of the Information Technology Act, 2000. The Court distinguished between discussion, advocacy and incitement, holding that the Constitution protects even unpopular or offensive opinions unless they amount to incitement recognised by law. This judgment remains one of the strongest affirmations of free speech in contemporary Indian constitutional law because it emphasises that democracy depends upon the free exchange of ideas rather than the suppression of dissenting viewpoints.

The Constitutional Right to Peaceful Protest: The right to protest, though not expressly enumerated as an independent fundamental right, has been consistently recognised by constitutional courts as an indispensable component of Articles 19(1)(a) and 19(1)(b). While Article 19(1)(a) protects the freedom to express opinions, Article 19(1)(b) guarantees every citizen the right to assemble peacefully and without arms. Read together, these provisions form the constitutional basis for peaceful demonstrations, marches, sit-ins and other non-violent forms of collective expression.

³ *Romesh Thappar v State of Madras* AIR 1950 SC 124

⁴ *Brij Bhushan and Anr v State of Delhi* AIR 1950 SC 129

⁵ *Shreya Singhal v Union of India* (2015) 5 SCC 1

The constitutional significance of peaceful protest lies in its democratic function. Elections enable citizens to choose their representatives at periodic intervals; public demonstrations, on the other hand, provide citizens with a continuous mechanism to communicate grievances between elections. Consequently, protest is not an alternative to democracy but one of its recognised constitutional expressions.

The Supreme Court acknowledged this principle in *Kameshwar Prasad v State of Bihar*,⁶ where it held that peaceful demonstrations constitute a legitimate form of expression protected under Article 19, although demonstrations involving violence or coercion may lawfully be restricted. This judgment clarified that the Constitution protects peaceful dissent rather than disruptive or violent conduct.

The position was further strengthened in *Himat Lal K. Shah v Commissioner of Police, Ahmedabad*,⁷ where the Supreme Court held that although the State possesses authority to regulate the use of public streets in the interest of maintaining order, it cannot impose a blanket prohibition that effectively extinguishes the constitutional right itself. Regulation of assemblies is constitutionally permissible; complete prohibition without adequate justification is not.

The distinction between regulation and suppression therefore occupies a central place in constitutional jurisprudence. Administrative authorities may prescribe reasonable conditions concerning the time, place and manner of demonstrations. However, restrictions imposed merely because a protest criticises governmental policies would be inconsistent with the constitutional commitment to political freedom and democratic accountability.

Article 21 and the Expanding Meaning of Personal Liberty: The constitutional protection of democratic dissent extends beyond Article 19. Through an expansive interpretation of Article 21, the Supreme Court has transformed the guarantee of life and personal liberty into one of the broadest constitutional protections available to citizens.

In the landmark judgment of *Maneka Gandhi v Union of India*,⁸ the Court held that every procedure affecting personal liberty must be fair, just and reasonable rather than arbitrary or

⁶ *Kameshwar Prasad and Ors v State of Bihar* AIR 1962 SC 1166

⁷ *Himat Lal K Shah v Commissioner of Police, Ahmedabad* (1973) 1 SCC 227

⁸ *Maneka Gandhi v Union of India* (1978) 1 SCC 248

oppressive. This decision fundamentally altered Indian constitutional jurisprudence by establishing that executive action cannot rely solely upon statutory authority; it must also satisfy constitutional standards of fairness and due process. Applied to public protests, the implications of *Maneka Gandhi* are significant. Preventive detention, restrictions on movement, mass arrests or prolonged custody during demonstrations cannot escape constitutional scrutiny merely because they are undertaken in the name of maintaining public order. Every interference with personal liberty must remain consistent with the principles of fairness, proportionality and procedural safeguards.

Article 21 therefore acts as a constitutional shield ensuring that executive power remains accountable even during periods of political tension or public unrest.

Procedural Safeguards During Arrest: The Significance of D.K. Basu: The constitutional guarantee of personal liberty would become ineffective if arrests were carried out without procedural safeguards. Recognising this concern, the Supreme Court in *D.K. Basu v State of West Bengal*⁹ laid down mandatory guidelines governing arrest and detention.

The Court directed that:

- Police officers making an arrest must bear clear identification.
- An arrest memo must be prepared and attested.
- The arrested person has the right to inform a relative or friend.
- Details of arrest must be properly recorded.
- Medical examination should be conducted at prescribed intervals.
- The detainee must be informed of his or her legal rights.

Although *D.K. Basu* arose in the context of custodial violence, its principles possess equal relevance during public demonstrations. Whenever protestors are detained or arrested, constitutional compliance depends not merely upon the legality of the arrest but also upon strict adherence to these procedural safeguards. Failure to observe these requirements may render executive action vulnerable to constitutional challenge.

⁹ *DK Basu, Ashok K Johri v State of West Bengal, State of UP* (1997) 1 SCC 416

Equality Before Law and Protection Against Arbitrary State Action: Article 14 complements Articles 19 and 21 by ensuring equality before the law and prohibiting arbitrary State action. Modern constitutional jurisprudence has consistently recognised that arbitrariness itself violates Article 14.

Consequently, governmental restrictions upon demonstrations must satisfy standards of fairness, consistency and non-discrimination. Authorities cannot permit one public gathering while prohibiting another solely based on the political viewpoints expressed by participants. Such selective application of police powers would offend the constitutional guarantee of equality. The doctrine of non-arbitrariness therefore requires that executive decisions regulating assemblies be based upon objective legal considerations such as public safety, security or genuine threats to public order, rather than ideological disagreement with the views expressed by demonstrators.

Constitutional Remedies and Judicial Review: The effectiveness of fundamental rights ultimately depends upon the availability of effective constitutional remedies. Dr B.R. Ambedkar famously described Article 32 as the "heart and soul" of the Constitution because it empowers citizens to directly approach the Supreme Court whenever their fundamental rights are violated. Article 226 similarly confers broad jurisdiction upon the High Courts to issue writs protecting constitutional liberties. Judicial review performs a critical constitutional function by ensuring that executive action affecting freedom of speech or public assemblies remains subject to independent scrutiny. Courts therefore act not merely as adjudicatory bodies but as guardians of constitutional democracy itself. However, judicial review also requires courts to maintain a careful balance. Excessive judicial deference may weaken constitutional protections, whereas unwarranted judicial intervention may unnecessarily impede legitimate governmental functions. The challenge before constitutional courts has therefore been to preserve democratic freedoms without undermining the State's constitutional responsibility to maintain public order.

The Doctrine of Proportionality: The Constitutional Standard: Among the most significant developments in Indian constitutional jurisprudence has been the recognition of the doctrine of proportionality as the primary constitutional standard for reviewing restrictions upon fundamental rights. The doctrine received authoritative recognition in *Modern Dental*

College & Research Centre v State of Madhya Pradesh¹⁰ and was reaffirmed by the nine-judge Bench in Justice K.S. Puttaswamy (Retd.) v Union of India.¹¹ Under this doctrine, the constitutional validity of State action depends not merely upon statutory authority but also upon whether the restriction imposed bears a proportionate relationship to the objective sought to be achieved.

Constitutional courts increasingly examine State action through four interrelated questions –

Legality: Was the action authorised by law?

Legitimate Aim: Did it pursue a constitutionally recognised objective such as public order or security?

Necessity: Were less restrictive alternatives reasonably available?

Proportionality: Did the restriction impose an excessive burden upon fundamental rights when compared to the objective sought to be achieved?

These principles are particularly relevant in the context of democratic dissent. Measures such as prohibitory orders, preventive detention, restrictions upon assemblies, internet shutdowns or police intervention cannot be constitutionally justified merely by invoking ‘public order.’ Each measure must independently satisfy the constitutional requirements of legality, necessity and proportionality. This proportionality framework has increasingly become the constitutional lens through which courts evaluate governmental restrictions upon civil liberties. It reflects the broader constitutional commitment that the preservation of public order must not come at the cost of extinguishing the very freedoms that define a democratic society.

STATE POWER, CRIMINAL LAW AND THE CONSTITUTIONAL REGULATION OF PUBLIC PROTEST

The maintenance of public order is one of the State's foremost constitutional responsibilities. A democratic government cannot permit violence, destruction of public property or threats

¹⁰ *Modern Dental College & Research Centre v State of Madhya Pradesh* (2016) 7 SCC 353

¹¹ *Justice KS Puttaswamy (Retd) and Anr v Union of India and Ors* (2017) 10 SCC 1

to public safety under the guise of protest. Equally, however, the Constitution does not authorise the State to suppress peaceful dissent merely because such dissent is politically inconvenient or administratively challenging. The constitutional objective is therefore not to choose between liberty and order, but to ensure that public order is maintained through methods consistent with constitutional values.

This balance has assumed particular significance in contemporary India, where public demonstrations have frequently been accompanied by prohibitory orders, preventive detentions, restrictions on movement, internet shutdowns and criminal proceedings against protestors. The constitutional validity of these measures depends not only upon statutory authority but also upon the manner in which such authority is exercised.

Preventive Powers under the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS): The Bharatiya Nagarik Suraksha Sanhita, 2023 confers extensive preventive powers upon Executive Magistrates and police authorities to maintain public order. These include the authority to issue prohibitory orders, regulate public assemblies, disperse unlawful gatherings and undertake preventive arrests where there exists a genuine apprehension of danger to public tranquillity. Such powers are constitutionally valid because the State bears a positive obligation to protect life, maintain peace and prevent violence. Nevertheless, preventive powers are **exceptional** in nature and must not become ordinary instruments for controlling political disagreement or discouraging peaceful civic participation.

The constitutional concern therefore lies not in the existence of preventive powers but in their application. Blanket restrictions imposed without adequate material, prolonged prohibitory orders lacking periodic review, or preventive detention unsupported by objective evidence may transform legitimate regulatory powers into arbitrary executive action. Consequently, every exercise of preventive authority remains subject to judicial scrutiny under Articles 32 and 226 of the Constitution.

Democratic Dissent and the Bharatiya Nyaya Sanhita, 2023 (BNS): The Bharatiya Nyaya Sanhita, 2023 criminalises conduct such as unlawful assembly, rioting, assault on public servants, obstruction of public officials and destruction of public property. These provisions serve an important public purpose by ensuring that demonstrations remain peaceful and that violence does not undermine constitutional governance. However, the existence of criminal

offences does not imply that every protest attracting police intervention becomes unlawful. Constitutional jurisprudence requires a careful distinction between peaceful political dissent and criminal misconduct.

For instance, if demonstrators engage in violence, vandalism or attacks upon public officials, criminal prosecution under the BNS becomes constitutionally justified. Conversely, where demonstrators merely assemble peacefully to express disagreement with governmental policy, the invocation of criminal law must satisfy the constitutional standards of legality, necessity and proportionality. The indiscriminate application of criminal provisions against peaceful demonstrators risks producing what constitutional scholars describe as a 'chilling effect', a situation in which citizens refrain from exercising their constitutional rights due to fear of arrest or prosecution. Such an outcome would be inconsistent with the democratic spirit underlying Articles 19 and 21.

Police Powers and the Constitutional Limits on the Use of Force: Perhaps the most contested aspect of protest regulation concerns the use of physical force by law enforcement agencies. Measures such as baton charges, tear gas, water cannons, barricading, preventive detention and mass arrests undoubtedly fall within the operational powers available to the police under appropriate circumstances. Nevertheless, constitutional legality depends not upon the existence of these powers alone but upon the circumstances in which they are exercised.

The Supreme Court addressed this issue comprehensively in *Ramlila Maidan Incident v Home Secretary, Union of India*.¹² Examining the midnight police action against sleeping protestors at Delhi's Ramlila Maidan, the Court held that the freedoms guaranteed under Articles 19(1)(a) and 19(1)(b) occupy a preferred constitutional position and that executive authorities cannot resort to excessive force merely for administrative convenience.

The Court emphasised that force should remain a measure of last resort, employed only when necessary and in the minimum degree required to restore public order. Even where dispersal of an assembly becomes legally justified, the State remains under a constitutional obligation to minimise harm and respect the dignity of individuals. The judgment reaffirmed an important constitutional principle: State power increases alongside constitutional

¹² *Re-Ramlila Maidan Incident Dt 4/5.06.2011 v Home Secretary, Union of India and Ors* (2012) 5 SCC 1

responsibility. The greater the coercive powers entrusted to public authorities, the greater the obligation to exercise them fairly, proportionately and transparently.

Internet Shutdowns and the Digital Dimension of Democratic Dissent: The nature of democratic protest has evolved significantly in the digital era. Public mobilisation increasingly occurs through online platforms, making access to the internet an important facilitator of political participation and freedom of expression.

In *Anuradha Bhasin v Union of India*,¹³ the Supreme Court recognised that freedom of speech and expression through the internet enjoys constitutional protection under Article 19(1)(a). Although the Court did not declare internet access itself to be a fundamental right, it held that indefinite internet shutdowns are constitutionally impermissible and that every restriction must satisfy the tests of necessity and proportionality.

The Court further directed that orders suspending internet services should be published, periodically reviewed and remain open to judicial scrutiny. Transparency, therefore, became an essential constitutional safeguard against arbitrary executive action. The significance of *Anuradha Bhasin* extends beyond internet regulation. The judgment reinforces a broader constitutional principle that modern democratic participation increasingly depends upon digital communication. Restrictions affecting online expression must therefore be examined with the same constitutional seriousness as restrictions upon physical assemblies.

JUDICIAL RECOGNITION OF PROTEST AS A DEMOCRATIC RIGHT

The Supreme Court has repeatedly affirmed that peaceful protest constitutes an integral feature of constitutional democracy.

In *Mazdoor Kisan Shakti Sangathan v Union of India*,¹⁴ the Court observed that democracy requires spaces where citizens may peacefully express disagreement with governmental policies. It recognised that the complete denial of public spaces for demonstrations would substantially weaken democratic participation. Nevertheless, the Court also acknowledged that competing rights such as the rights of commuters, residents and businesses must receive constitutional protection.

¹³ *Anuradha Bhasin v Union of India* AIR 2020 SC 1308

¹⁴ *Mazdoor Kisan Shakti Sangathan v Union of India* (2018) 17 SCC 324

Similarly, in *Amit Sahni v Commissioner of Police*¹⁵ (popularly known as the Shaheen Bagh case), the Supreme Court clarified that although peaceful protest enjoys constitutional protection, indefinite occupation of public roads may justify reasonable regulatory intervention. Importantly, neither judgment diluted the constitutional legitimacy of protest itself. Instead, both decisions emphasised that constitutional governance requires a careful reconciliation of competing rights rather than the absolute prioritisation of either governmental authority or individual liberty.

INTERNATIONAL HUMAN RIGHTS STANDARDS

Indian constitutional jurisprudence has frequently drawn guidance from international human rights principles while interpreting fundamental rights. Among the most significant international instruments is the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990).

These Principles require law enforcement authorities to:

- Employ non-violent means wherever reasonably possible before resorting to force;
- Use force only where strictly necessary;
- Ensure that the force employed remains proportionate to the legitimate objective pursued;
- Minimise injury and preserve human life; and
- Remain accountable for every use of force.

Although these Principles are not directly enforceable as domestic legislation, they reinforce constitutional doctrines already recognised by the Supreme Court. Their significance lies in demonstrating that constitutional standards governing democratic dissent in India are broadly consistent with internationally accepted principles concerning policing in democratic societies.

¹⁵ *Amit Sahni v Commissioner of Police* (2020) 10 SCC 439

CONTEMPORARY CONSTITUTIONAL CHALLENGES: RECENT PROTEST MOVEMENTS

Recent public demonstrations across India have once again brought these constitutional principles into sharp focus. Student protests, farmers' movements, civil society campaigns and demonstrations concerning regional and environmental issues have generated renewed constitutional debate regarding the appropriate limits of State power.

Events surrounding demonstrations in Delhi during July 2026, including allegations regarding the use of baton charges, tear gas, preventive detention and restrictions upon assemblies, have generated significant public discussion. Simultaneously, the authorities have defended these measures as necessary to maintain public order and prevent escalation.

From a constitutional perspective, however, the primary question is not whether one narrative should be preferred over another, but whether executive action satisfies established constitutional standards.

Every such incident invites courts to examine:

- Whether the restriction was authorised by law.
- Whether the objective pursued was constitutionally legitimate.
- Whether less restrictive alternatives were reasonably available.
- Whether the force employed remained proportionate.
- Whether affected individuals received effective judicial remedies.

These questions reflect the essence of constitutional adjudication. Democratic constitutionalism does not presume either governmental misconduct or governmental infallibility. Instead, it insists that every exercise of State power remain accountable to constitutional principles, judicial oversight and the rule of law.

DEMOCRATIC ACCOUNTABILITY, MEDIA NARRATIVES AND THE FUTURE OF CONSTITUTIONAL DISSENT

The Media as the Fourth Pillar of Democracy: Although the Constitution does not expressly mention the press, the Supreme Court has consistently recognised “freedom of the press” as an inseparable component of the freedom of speech and expression guaranteed under Article

19(1)(a). An informed citizenry is indispensable to constitutional democracy because democratic participation depends upon access to accurate and diverse sources of information. The media therefore performs a constitutional function by facilitating public debate, exposing governmental excesses and enabling citizens to hold public authorities accountable.

In contemporary India, however, the role of the media during large-scale public protests has become increasingly contested. Different sections of the media frequently present contrasting narratives regarding the same event. Official statements may emphasise concerns relating to public order and security, whereas independent journalists, civil society organisations and protestors may allege excessive use of force or disproportionate restrictions upon constitutional freedoms.

Such divergence does not by itself establish constitutional illegality. Rather, it demonstrates why a free and independent press remains indispensable in a democratic society. Constitutional accountability depends upon the availability of multiple perspectives rather than a single official narrative. Equally, journalists carry a constitutional responsibility to report verified facts instead of contributing to misinformation or political polarisation. The media must therefore function neither as an unquestioning supporter of governmental action nor as an institution driven by political hostility. Its constitutional obligation is to inform citizens objectively so that democratic participation remains meaningful.

Balancing Public Order and Civil Liberties: One of the most difficult constitutional questions concerns the balance between civil liberties and public order. Every democratic government possesses a legitimate responsibility to protect life, maintain peace and prevent violence. At the same time, constitutional rights cannot become illusory merely because the exercise of those rights creates administrative inconvenience.

The Supreme Court has repeatedly emphasised that constitutional rights and public order are not mutually exclusive objectives. Rather, they must be harmonised through the doctrine of proportionality. Restrictions upon assemblies or speech may therefore be justified where there exists a genuine and immediate threat to public safety. However, restrictions imposed merely to prevent criticism of governmental policies would undermine the democratic character of the Constitution.

Constitutional governance demands that executive authorities distinguish between peaceful disagreement and unlawful conduct. Violence, destruction of public property and incitement to offences fall outside constitutional protection. Peaceful criticism, however, remains an essential democratic freedom even where it is uncomfortable or politically inconvenient.

Comparative Constitutional Perspective: Comparative constitutional practice demonstrates that democratic societies across the world recognise peaceful protest as an essential constitutional freedom while simultaneously permitting reasonable regulation in exceptional circumstances.

In the United States, the First Amendment protects freedom of speech and peaceful assembly. Governmental regulation is generally permissible only through narrowly tailored, content-neutral restrictions concerning the time, place and manner of demonstrations.

Similarly, the United Kingdom, through the Human Rights Act 1998 and Article 11 of the European Convention on Human Rights, protects peaceful assembly while permitting restrictions only where they are prescribed by law and necessary in a democratic society.

South Africa's Constitution expressly guarantees the right to peaceful assembly under Section 17, reflecting the principle that democratic participation cannot flourish where citizens fear exercising constitutional freedoms.

These comparative examples demonstrate that constitutional democracies do not prohibit regulation of protests. Rather, they insist that regulatory measures remain proportionate, transparent and subject to effective judicial oversight. Indian constitutional jurisprudence broadly reflects the same constitutional philosophy.

RECOMMENDATIONS

The preservation of democratic dissent requires institutional reform rather than the absolute expansion or contraction of State power. Constitutional governance must ensure that public order is maintained without weakening the civil liberties that define a democratic republic.

Firstly, comprehensive national guidelines governing the policing of peaceful demonstrations should be framed and uniformly implemented across all States. These

guidelines should prioritise dialogue, negotiation and voluntary dispersal before coercive measures are adopted.

Secondly, any use of force by law enforcement agencies should satisfy the constitutional requirements of legality, necessity and proportionality. Wherever force becomes unavoidable, detailed written records explaining the reasons for such action should be maintained and remain open to judicial scrutiny.

Thirdly, police personnel deployed during public demonstrations should display clear identification and name badges. Such transparency strengthens public confidence and facilitates accountability where allegations of misconduct arise.

Fourthly, restrictions upon internet access, preventive detention or public assemblies should always be accompanied by reasoned written orders capable of effective judicial review. Transparency is an essential safeguard against arbitrary executive action.

Fifthly, constitutional courts should continue to apply rigorous standards of proportionality while reviewing restrictions imposed upon fundamental rights. Judicial review remains the most effective constitutional mechanism for preventing abuse of executive power.

Finally, democratic institutions including Parliament, constitutional courts, universities, the media and civil society must collectively preserve spaces where peaceful disagreement can flourish. A democracy that protects only supportive voices gradually weakens its constitutional foundations.

CONCLUSION

The Constitution of India envisages a democracy founded not merely upon electoral majorities but upon the continuous participation of informed and engaged citizens. Freedom of speech, peaceful assembly and democratic dissent therefore represent constitutional guarantees rather than political concessions. They enable citizens to question governmental decisions, participate in public discourse and contribute to the evolution of constitutional governance.

Equally, the Constitution recognises that these freedoms coexist with the State's legitimate obligation to preserve public order and protect public safety. The constitutional challenge

therefore lies not in choosing between liberty and authority but in ensuring that executive power is exercised within constitutional limits.

Judicial precedents from Romesh Thappar to Shreya Singhal, Ramlila Maidan, Mazdoor Kisan Shakti Sangathan, Anuradha Bhasin and Puttaswamy collectively demonstrate that restrictions upon democratic dissent are constitutionally permissible only when they satisfy the principles of legality, necessity, proportionality and procedural fairness. Neither unrestricted protest nor unrestricted State power is compatible with constitutional democracy.

Recent public demonstrations and the legal controversies surrounding them remind us that constitutional adjudication must remain grounded in evidence, due process and judicial independence rather than political narratives. Allegations of excessive force, arbitrary detention or disproportionate restrictions deserve impartial judicial scrutiny, while genuine concerns relating to public safety equally warrant constitutional consideration.

Ultimately, the strength of a constitutional democracy is measured not by the absence of dissent but by its willingness to protect peaceful disagreement while preserving the rule of law. As Dr B.R. Ambedkar warned, constitutional morality requires constant vigilance against arbitrary exercise of power. The continued vitality of the Indian Constitution therefore depends upon its ability to ensure that democratic dissent remains a protected constitutional value even during moments of intense political disagreement.