



Constitutional Regulation of the Right to Protest in India: Framing Guidelines for Democratic Governance in the Post-2025 Era

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ABSTRACT

The right to protest is protected as an integral part of democratic participation in India in the constitution under the provisions about freedom of speech, assembly and association (Article 19). Protests since 2025 have shifted in nature to be more digital, decentralized, occupy public space for longer and more polarized. These events have intensified the conflict between individual rights and the need for public safety, economic security and social harmony in the Constitution in recent years. This has created inconsistent responses by the authorities and legal uncertainty about the protests since there is no clear national framework for responding to protests. This article examines the right to protest from a constitutional and doctrinal perspective, examines some of the key court decisions, and illustrates how contemporary protest movements are creating new issues. The paper proposes a rights-based approach to structuring national protest rules based upon the theory of proportionality and comparative regulatory approaches. The paper maintains that it is necessary to have constitutional balance and strengthen the process of good governance, which involves protecting and controlling democratic dissent in an evolving socio-political environment.

INTRODUCTION:

The power of protest constitutes one of the most potent ways in which citizens exercise themselves politically, and it is an inherent part of constitutionalism in contemporary democracy. It is

through social unrest, legal reforms, and political shifts that social dissatisfaction in India throughout its history has led to action. Protest, therefore, was a mechanism employed by citizens to express their

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displeasure, ask questions about any biased policies and call upon their leaders to be answerable for the same. Therefore, when one protests, it is not merely a political act, but rather it is the assertion of one's power to do so under the Constitution.

The structure and character of protest movements in India, have changed drastically in the last several years, especially after the year 2025. In contrast, agitations are more widely spread than they used to be, and technologically mobilized, and now facilitated by social media networks, which were not so prominent in previous years when the agitations were coordinated by distinct organizations or leaders. Such protests have often taken the form of symbolic protests involving the closing of roads, occupations of buildings, vandalism and destruction of properties. While such protests reflect a higher degree of involvement by citizens in their government, they have resulted in several negative consequences such as the disruption of transport, financial losses and even issues of law and order.

Given recent trends in protest, one of the perennial issues of the constitution is now more pressing: protecting individual rights and preventing social disruption, crime, and tranquillity. The freedom of speech and expression, freedom of assembly peacefully, and freedom of association rights are enshrined under article 19 of the Indian Constitution. But what one must realize is that these freedoms are not absolute in nature and can be restricted for certain reasons. There are no clear laws that regulate protests and these have been managed through legal legislation, emergency powers and executive decrees of government from the colonial era.

As a result of the inconsistencies and often arbitrary responses in different places, legal uncertainty and allegations of rights abuses have followed. Since the lack of a unified national framework, there are no constitutional principles for authorities and citizens to operate in. Court rulings are still very reactive and case-specific, rather than systematic, despite judicial efforts to fill this gap. Given the above, it is the paper's contention that a rights-based regulation of protests is absolutely essential in India, which is aimed at preserving public order and the continuance of

governance without infringing on democratic freedoms. The system could also incorporate judicial review and develop on the principle of proportionality to strike a constitutional balance between the protection of democratic dissent and its abuse.

1. RESEARCH PROBLEM

Even though freedom to protest has been enshrined in Article 19 of the Indian Constitution, India does not have a well-developed set of laws relating to public protests. Several judicial decisions have thrown light on how the issue needs to be handled, but the lack of uniformity and clarity in such interpretations has resulted in an ambiguous situation regarding the balancing act between constitutional rights and public order. The new form of digital protests, which have become common since 2025, has only highlighted the inadequacy of the existing law.

2. LITERATURE REVIEW

Bhattacharya et al (2022), had explored the possibility of how India's constitution successfully held the country together despite the multiplicity of political expressions. They had found that citizens could participate in India's democracy in a number of different ways, one of which was through public demonstrations. These, however, it was remarked by the authors, were not uniform responses from the authorities, particularly at large-scale agitations, as there was no single regulatory framework for civic activity. Their aim was to argue that resilience of a democracy was not found in the suppression of dissent, but in the creation of institutional mechanisms to address social conflict without undermining the constitutional rights or liberties. Their research did much to deepen our understanding of the reasons why the Indian government has often resorted to emergency powers and prohibitors orders when there were no known precedents for the way to manage protest.

Earlier Aboh (2024) had presented a discourse-based perspective through social media posts of narratives from the #EndSARS protests in Nigeria. His studies had revealed that individuals could circumvent the traditional political channels using digital platforms, and that these platforms

were transforming the nature of protest into a global phenomenon. The findings revealed how online speech contributed to the increase of emotional expression, the activation of collective identities and more, affecting popular opinion on the state. The line between nonviolent protest and violent political opposition becomes more blurred in online protest venues, according to Aboh, who also found that this makes government regulation more difficult. His work is particularly important for post-2025 protest movements increasingly dependent on social media for co-ordinating, exposing and establishing credibility. The study's results highlight the relevance of digital speech in modern protest governance as a part of constitutional expression.

Novitz (2019) previously examined free association as a theory of the collective activity. She had tracked the development of association rights through history and highlighted their key function in maintaining democratic participation. In her previous research, she had claimed that constitutional systems' participatory cores were threatened by the erosion of communal freedoms. Novitz sees a worldwide movement towards securitization, which increasingly seeks to name dissent as a threat rather than a democratic right, in the growing regulation of assemblies and associations by the state. This theoretical framework had offered some justification for the notion that constitutional societies ought to be careful in their policing of protests for fear of eroding their democratic institutions.

Schupmann (2024) had already explored the apparent paradox of liberal constitutional systems that promise to protect democratic freedoms, but also limit them to protect these freedoms. His notion of 'militant democracy' justified the restriction of individual freedoms in constitutional states, in order to maintain the democratic system. The limits, according to Schupmann, tend to normalize emergency powers and surveillance techniques over time, even though that wasn't their initial intention. His work had established that, without robust judicial oversight and protection against proportionality, a democracy has the danger of becoming a permanent tool of government. Theoretically, it had played an important role in understanding the conflict

between individual freedom and governmental regulation in protest governance.

Kryder et al. (2023) have introduced a practical educational element by studying staged police and protester confrontations in a polarizing election. Their results provide insight into the complex network of legal and political restrictions on the interaction among protesters, the public, and institutional actors. The research shows that often the escalation of the confrontations is due to the absence of clear regulatory norms, harsh enforcement practices and misunderstandings between parties. The writers had come to the conclusion that in order to keep democracies from collapsing during large-scale protests, there needed to be clear legislative guidelines and procedures for structured debate.

3. RESEARCH METHODOLOGY

For the purpose of examining the constitutional framework of protest in India, this study uses the qualitative doctrinal legal research approach. The data for the analysis of the problem will consist of constitutional provisions, decisions of the Supreme Court, statutory enactments, Law Commission Reports, and peer-reviewed academic journal articles. Comparative constitutional law will also be used in order to analyze the laws relating to the regulation of protests in some selected democratic countries. The sources of information to be used in this research study will be purely secondary, with emphasis on the constitutional interpretation and principles of law.

4. CONSTITUTIONAL BASIS OF THE RIGHT TO PROTEST

Protest in India is protected in the constitutional framework enshrined under Article 19 of the Constitution, even though it is not specifically mentioned as a fundamental right. It is a result of an amalgamation of several other constitutional liberties such as the right to peacefully assemble, right to association, and right to freedom of speech and expression. These combined together provide the constitutional framework through which one can express oneself, assemble in groups, and participate in political discourse. Hence, protesting in India is not a

prohibited activity but rather one of constitutional permission in a perfect democratic spirit.

Whereas on one hand there are these liberties guaranteed under the constitution, on the other hand, these liberties come with a caveat and the state in the interest of public order, national integrity, security of the State, morality, decency, and sovereignty has powers under Articles 19(2), 19(3) & 19(4) to impose restrictions. The objective of the framers in granting these freedoms and limitations was to create a balance between the two extremes. Right to protest is thus a case in point where the idea of conditional freedom takes precedence.

Table 1 presents the constitutional framework that guarantees the right to protest and the laws permitting it under certain conditions.

Table 1. Constitutional provisions supporting the right to protest

Constitutional Article	Nature of Right	Grounds for Restriction
Article 19(1)(a)	Freedom of speech and expression	Article 19(2) – Public order, sovereignty, integrity of India
Article 19(1)(b)	Right to assemble peacefully	Article 19(3) – Security of the State, public order
Article 19(1)(c)	Right to form associations	Article 19(4) – Morality, integrity, public order

Rather than being acknowledged by a single explicit rule, the right to protest is acknowledged by a web of interconnected freedoms, as seen in Table 1. There is a clause that allows the state to put reasonable constraints on each freedom, though. Dissent is protected, but only under certain

The government must not impose a ban on protesting in such a manner that it curtails citizens' rights. However, the government reserves the right to impose a ban on protest if it feels that national interests require it. The point here, then, is that the table brings to light the need for a good regulatory

system that allows the exercise of democratic freedoms without letting things go haywire under the pretext of freedom allowed by the Constitution.

The right to protest is founded on the constitutional basis of liberty and governance. According to the Constitution, the right to voice one's discontentment is a key element of democracy. In addition, as far as dissent is concerned, it is said to be "lawful and in the public interest." It is the basis of formulating further policies that would strike a balance between personal liberties and constitutional duties of ensuring social order and lawfulness.

5. JURISPRUDENTIAL EVOLUTION OF PROTEST RIGHTS

The right to protest in India has been defined in large part by the decisions of Indian courts. Without a clear statute regulating public protests, precedent from the courts has shown how to strike a balance between the right to free speech and the needs of the public. While the judiciary has upheld the right to protest as a fundamental democratic principle, it has also made it plain that protests cannot infringe upon the rights of others or cause disruptions to public life.

In a number of seminal decisions, the courts have struck a middle ground between complete freedom and complete restriction, opting instead for reasonable restraint. In this way, we can see the constitutional principle at work, which states that individual liberties and the common good must coexist. Tabulated in Table 2 are the primary legal concepts that have contributed to this comprehension.

Table 2. Judicial pronouncements on the right to protest

Case	Year	Judicial Principle
<i>Himat Lal Shah v. Commissioner of Police</i>	1973	State may regulate but not arbitrarily prohibit protests
<i>Mazdoor Kisan Shakti Sangathan v. Union of India</i>	2018	Blanket bans on peaceful protests are unconstitutional

<i>Amit Sahni v. Commissioner of Police</i>	2020	Public roads cannot be occupied indefinitely
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Judgment has always attempted to balance individual freedoms against collective considerations, as demonstrated by the examples provided in Table 2 above. It is evident from the judgments that constitutional provisions allow for appropriate restrictions on demonstrations for the purpose of maintaining order and not silencing dissent.

6. CHANGING NATURE OF PROTESTS IN THE POST-2025 ERA

Public demonstrations in India after 2025 became a whole lot different. Today, the process of mobilization tends to be quite decentralized, and people organize through online platforms rather than having clear leaders. Social networks, instant messaging, and other kinds of web resources become crucial components in terms of recruiting supporters, spreading information, and forming opinions. While that has made the citizens more involved politically, the traditional way of controlling public unrest via administrative and legal measures seems to be less efficient nowadays.

The occupations of public thoroughfares, government property, and transportation infrastructure were yet another type of protests we witnessed in recent years. The results of such actions include inconveniences to the population, disruption of the economy, and disruption of important processes. These types of protests only increase the existing political strife and add even more pressure on governmental bodies and law enforcers.

6.1. Major Post-2025 Protest Movements

The nature of protests in India has changed significantly in the post-2025 era. Digital platforms, decentralized organization, and rapid public mobilization have transformed traditional forms of protest. These developments have created new constitutional challenges in balancing the fundamental right to protest with the need to maintain public order, public safety, and effective governance.

Table 3. Major Post-2025 Protest Movements in India

Protest Movement	Year	Constitutional Issue
Bharat Bandh (Trade Unions and Farmers)	2025	Balance between the right to protest and maintenance of public order and essential services
SSC Aspirants' Protest, New Delhi	2025	Freedom of peaceful assembly and expression concerning public recruitment grievances
Gurjar Reservation Protest, Rajasthan	2025	Right to protest versus disruption of railway services and public infrastructure
Digital and Social Media-Coordinated Protests	2025–2026	Regulation of online mobilization, freedom of speech, and constitutional accountability

Table 3 illustrates that protest movements after 2025 have become increasingly decentralized, technology-driven, and digitally coordinated. Unlike conventional demonstrations, these movements rely heavily on social media platforms, creating new constitutional challenges relating to freedom of expression, public order, digital governance, and administrative accountability. These developments reinforce the need for a coherent constitutional framework capable of

balancing democratic dissent with effective governance.

Tabulated in Table 4 are the salient characteristics and constitutional implications of protest movements that will occur after the year 2025.

Table 4. Characteristics of post-2025 protest movements

Feature	Constitutional Concern
Digital mobilization	Difficulty in regulation
Leaderless movements	Lack of accountability
Road and rail blockades	Economic disruption
Political polarization	Law and order challenges

Contemporary protests bring new obstacles for constitutional governance, as shown in Table 3. Both leaderless protests and the usage of digital media make regulatory supervision more complicated and accountability more challenging. Political division and blockages to critical infrastructure compound existing worries about maintaining law and order. All of these shifts highlight the need for new laws that protect basic liberties while also addressing new kinds of protest.

7. BALANCING LIBERTY AND PUBLIC ORDER

The principle that forms part of the Indian constitution is the fact that there must be no conflict between the personal freedom of individuals and the general welfare. It is not the prerogative of anyone to gather together and express their views in any manner which would place the security of other members of the community in jeopardy or trample on the rights of others; however, this is something that should be done within a democratic state. Consequently, through the use of the concepts of proportionality and reasonableness within the constitution, the powers of both the government and individual freedom can be restrained.

This balance is crucial during times of protests. The disruption of essential services, loss in economy, and dangers to people's security can arise from uncontrolled protests, whereas the democratic rights can be restricted by stringent policies. It is a difficult task to formulate a set of laws that would support lawful protests.

7.1. Theoretical Foundations

There are a number of political and constitutional views that argue for a middle ground between individual freedom and public safety. Each of these models presented the argument for the need of particular legal protections and guidelines for protester.

- **Natural Rights Theory** Under the Natural Rights Theory, protest is seen as a natural aspect of human freedom. It believes that people have a moral right to speak out against injustice, and to oppose it, even in the absence of legal systems. In this sense, the State does not give you the right to protest, it gives you the right to protest, as it's a basic human right.
- **Liberal Constitutionalism** Liberal Constitutionalism is based on the recognition of the importance of individual rights in democratic government, while simultaneously rejecting unlimited rights. Under this theory, restrictions can only be justified when the exercise of a right harms another person or poses a threat to public welfare. In protest situations, this principle applies to the extent that it is only allowed if it is necessary to avoid violence, disorder or serious disruption.
- **Democratic Participation Theory** Views protest as an alternative to formal political processes. Protests are another way of participating when institutional avenues are ineffective in resolving public grievances. Yet dissent has to be within the constitutional boundaries that guarantee democratic participation, while, at the same time, maintaining social stability.

These theories offer justifiable support for a balance – that is, respecting the right to protest and ensuring public order and constitutional harmony with reasonable regulation..

8. PROPORTIONALITY AS A CONSTITUTIONAL TOOL

The idea of proportionality is one of the most important constitutional concepts to strike a balance between basic rights and the goals of the state. In cases of protests, the principle of proportionality is used as a safeguard against the imposition of disproportionate or unreasonable restrictions by the State. The doctrine is that any limitation on the freedom to protest should be constitutionally acceptable, well justified, and narrowly drawn – it does not give broad administrative authority or blanket bans.

A demand for proportionality ensures that any limit placed on this kind of freedom is proportionate to the public interest served, for instance, on the grounds of safety, order and stability, rather than simply for the sake of administration. The government also must demonstrate that the government could not achieve the same without imposing the same requirements. Proportionality turns constitutional rights into reality by transforming them into norms of government.

Table 5. Proportionality test in protest regulation

Stage	Constitutional Objective
Legitimate aim	Protect public order and security
Rational connection	The restriction must relate directly to the stated purpose
Necessity	The least restrictive measure must be chosen
Balancing	The harm caused by the restriction must not outweigh the benefit

Judgmental review is and applies to a four-stage proportionality test, which is detailed in Table 4. Proportionality is a "filter" of the Constitution, as demonstrated in Table 4, which is also an "aggregate". For each level we verify that

the restrictions on demonstrations are reasonable and not unreasonable. In order to meet the test, the State gives its reasons for the restriction, its scope and consequences on basic rights. This theory can be used by courts to restrict the exercise of presidential power while at the same time preserving the power to regulate as necessary to preserve public order.

9. COMPARATIVE REGULATORY APPROACHES

Different democratic countries regulate the right to protest through constitutional and statutory frameworks that seek to balance individual freedoms with public order. While the legal approaches vary, most jurisdictions recognize peaceful protest as a fundamental democratic right subject to reasonable restrictions. Examining these regulatory models provides useful guidance for developing a balanced and rights-based framework for India.

Table 6. Comparative regulatory approaches to the right to protest

Country	Legal Framework	Key Regulatory Feature
India	Article 19 of the Constitution	Peaceful protest permitted subject to reasonable restrictions for public order and security.
United States	First Amendment to the U.S. Constitution	Strong constitutional protection of freedom of speech and

		peaceful assembly.
United Kingdom	Public Order Act	Advance notification and police powers to regulate public assemblies.
Germany	Basic Law (Article 8)	Guarantees peaceful assembly while permitting proportionate restrictions.
Canada	Canadian Charter of Rights and Freedoms	Protects peaceful assembly subject to reasonable limits prescribed by law.

The comparative approaches presented in Table 6 demonstrate that democratic nations protect the right to peaceful protest while permitting proportionate legal restrictions to maintain public order. These international practices support the need for a clear and balanced constitutional framework for regulating protests in India.

10. PROPOSED CONSTITUTIONAL FRAMEWORK FOR INDIA

There is a need for India to have a unified and right-based regulation to strike a balance between public order and violence, on the one hand, and the right of peaceful assembly, on the other. This will ensure that protests continue legally but without disrupting anything to the extent that they can be classified as a form of free speech.

Table 7 summarizes the key principles and measures of the proposed framework

Table 7. Suggested national protest guidelines

Principle	Practical Measure
Recognition of rights	Legal acknowledgment of peaceful protest as a democratic right
Prior notice	Transparent and time-bound permission process

Designated zones	Allocation of safe public spaces for assembly
Digital accountability	Regulation to prevent online incitement and misinformation
Judicial oversight	Fast and independent review of restrictions

The actions listed in Table 6 aim to maintain order and protect the free expression of democratic ideas. This paradigm promotes a balanced approach towards achieving a free and governed society through recognition of rights and acceptable legislation and judicial powers.

11. FINDINGS

The study identifies the following findings:

1. India lacks a consolidated legal regime regarding the right to protest.
2. Judicial decisions are largely based on the doctrine of proportionality in rights versus order.
3. The post-2025 protests in cyberspace and the decentralized nature of such protests pose new constitutional problems.
4. The administration's responses to protests are not consistent in different states.
5. Constitutional practices from other nations require clear regulation of protest rights.

12. POLICY RECOMMENDATIONS

Based on the findings, the study recommends:

1. Enactment of a National Protest Regulation Act based on constitutional principles.
2. Development of Standard Operating Procedures (SOPs) for protest management.
3. Establishment of legal guidelines for digital and social media-based protests.
4. Strengthening of judicial oversight and police accountability in regulating demonstrations.

5. Identification of designated protest zones while ensuring protection of fundamental rights.

13. LIMITATIONS AND CRITICAL EVALUATION

This study is confined only to doctrinal legal research on the basis of constitutional provisions, judicial precedents, legislative enactments, and secondary sources of law. Empirical data is not taken into consideration in this research. Furthermore, the disparities in the legal system can hamper the application of comparative practices in India.

The current legal regime regulating the conduct of protests is patchy and mainly relies on judicial construction of laws instead of an elaborate law. There is also no proper guidance available in the present legal regime about the regulation of digitally organized protests.

14. CONCLUSION

The right to protest is one of the many democratic rights that are enshrined in the Indian Constitution. It is important to understand that because of the absence of any legal framework for regulating protests and the dynamic changes that the protest movements witnessed after 2025, there have been problems in reconciling constitutional rights and public order. It can be seen from the above findings that there is a possibility of regulating protests according to the principles of rights, proportionality, judicial review, and administrative accountability. This will help bring about consistency in the constitution and protect democracy.

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