



THE VANISHING RIGHT TO DISSENT: FREE SPEECH IN THE AGE OF NATIONALISM

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ABSTRACT

Over the past few years, hyper-nationalism sweeping through different democracies has threatened the right to dissent, a fundamental cornerstone of a free society. This piece examines the very intricate relationship between free speech and nationalism and how dissent is being increasingly used as synonymous with anti-nationalism. It offers a comparative examination of legal structures, state and societal backlash's chilling effect, and the democratic health implications of eroding dissent. The article ends by calling for enhanced judicial protection and renewed civil debate to uphold the constitutional guarantee of free expression.

Keywords: Free Speech, Nationalism, Right to Dissent.

INTRODUCTION

Dissent is not simply the sign of a healthy democracy but also its lifeblood. But in the current atmosphere of hardline nationalism, the room for free speech—particularly for dissenting voices—is seemingly fast disappearing. The blurring of national interest with state policy has resulted in a perilous narrative: to query the state is to betray the nation. This article explores the legal and socio-political facets of this phenomenon and calls for a re-examination of the principles that protect freedom of expression.

HISTORICAL CONTEXT: DISSENT AS A DEMOCRATIC VIRTUE

Dissent has also been a nation-building force throughout history. Article 19(1)(a) of the Indian Constitution promises the right to freedom of speech and expression.¹ Yet, the same Article permits "reasonable restrictions" under Article 19(2), which, even though they were meant as

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¹ The Constitution of India, Art. 19 (1) (a).

a balance between liberty and order, have increasingly become vulnerable to abuse during political uncertainty.²

NATIONALISM AND THE REFRAMING OF DISSENT

Nationalism, when confined to a unitary loyalty to the state, becomes plural-tolerant. In the era of online media and hyper-visibility, public debate is increasingly policed not only by the state but also by civil society. Dissidents are regularly identified as "anti-national," "urban Naxals," or "traitors," labels that have tangible consequences such as surveillance, arrest, and social exclusion.³

This redefinition is risky because it discredits dissent not by challenging its arguments but by challenging the dissenter's intent or patriotism. The outcome is a climate of fear and self-censorship.

LEGAL CLAMPDOWNS AND THE CHILLING EFFECT

India has seen a consistent increase in the application of colonial-period laws like sedition (Section 124A of the IPC), the Unlawful Activities (Prevention) Act (UAPA), and anti-terror legislation to muzzle critics.⁴ Though the Supreme Court in *Kedar Nath Singh v. State of Bihar* (1962) judged that sedition is only for speech that encourages violence, imprecise and sweeping interpretations have found extensive abuse.⁵

Case Studies-

- **Munawar Faruqui (2021):** A comedian arrested for reportedly offending religious sentiments, even before the performance of the show.⁶
- **Disha Ravi (2021):** A 22-year-old climate activist accused of sedition for editing a toolkit used to protest.⁷

Such cases portray not only the excesses of the state but also how the legal processes themselves serve as a punishment—a process referred to as "process as punishment."

² The Constitution of India, Art. 19 (2).

³ Rajagopal, Krishnadas. "Free Speech and Nationalism." *The Hindu*, 2020.

⁴ People's Union for Civil Liberties, *Sedition Laws and the Death of Free Speech in India*. PUCL Report, 2018.

⁵ *Kedar Nath Singh v. State of Bihar*, AIR 1962 SC 955.

⁶ "India Comedian Munawar Faruqui Held for Jokes He Didn't Crack." *BBC News*, January 2021.

⁷ "Toolkit Case: Disha Ravi Gets Bail." *The Wire*, February 2021.

THE ROLE OF JUDICIARY AND MEDIA

Whereas, on the rare occasions when courts have intervened to defend free speech, their silence or tardiness in politically charged cases has eroded public trust. At the same time, parts of the media have relinquished their watchdog role, being used as instruments of state propaganda and hate campaigns against dissidents.⁸

This institutional weakness heralds a more profound crisis: when both the judiciary and media—the twin pillars of checks and balances—are incapable of defending dissent, democracy itself is threatened.

GLOBAL COMPARISONS

India is not unique in this fight. In the United States, free speech is constitutionally more rigidly protected, but dissenters such as whistleblowers and anti-war activists are typically subject to unofficial repression.⁹ Under authoritarian regimes such as China or Russia, dissent is practically criminalised. The distinctive threat in democracies such as India, though, is the legal veneer of protection which hides systemic oppression.

DISSENT IN THE DIGITAL AGE

Social media was previously acclaimed to be a democratizing force. It now serves as both a mode of expression and a surveillance tool. Troll armies, data manipulation, and algorithmic bias have ensured that digital dissent has become both easier to express and more difficult to defend. Legislation such as India's IT Rules (2021) continues to broaden state control over online speech, raising the stakes for digital dissidents.¹⁰

RECLAIMING THE CONSTITUTIONAL SPIRIT

The Indian Constitution's framers dreamed of a country where citizens would be free to speak, criticise authority, and set the tone for the kind of public discourse they wanted without fear. As Justice D.Y. Chandrachud correctly put it, "Dissent is a safety valve of democracy."¹¹ To revive this dream, the following are essential -

⁸ Choudhury, Suhrith Parthasarathy. "The Chilling Effect of Surveillance." *Indian Express*, 2021.

⁹ Greenwald, Glenn. *No Place to Hide: Edward Snowden, the NSA, and the U.S. Surveillance State*. 2014.

¹⁰ Internet Freedom Foundation. "Analysis of India's IT Rules 2021." March 2021.

¹¹ Justice D.Y. Chandrachud, Speech at the Justice K.K. Mathew Memorial Lecture, 2019.

1. **Judicial Reforms:** Expediting free speech cases and invalidating ambiguous laws such as sedition.
2. **Media Accountability:** Enhancing journalistic autonomy through legal and institutional protections.
3. **Civic Education:** Enhancing constitutional literacy to differentiate between anti-state and anti-government sentiments.
4. **Legislative Review:** Repeal or amendment of repressive laws to bring them up to international human rights standards.

CONCLUSION

Free speech is impossible without the right to dissent. In this time of renewed nationalism, it needs the conscious effort of not only courts and legislatures but of every citizen who holds liberty dear. Democracy is not assessed by the way it treats its admirers, but by how it tolerates its critics.