



## CAN THE STATE BAN SOCIAL MEDIA? A CONSTITUTIONAL ANALYSIS OF NEPAL'S PROTEST MOVEMENT

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Nepal's "Gen Z" protests began in September 2025 when the government suddenly banned many social media platforms. On September 4, authorities in Kathmandu blocked 26 platforms, including Facebook, Instagram, YouTube, WhatsApp, X/Twitter, and WeChat, citing new registration rules from the Communications Ministry.<sup>1</sup> This ban occurred amid widespread anger over corruption and economic troubles. Within days, thousands of young demonstrators, many in school uniforms, flooded the streets of Kathmandu and other cities.<sup>2</sup> By September 8-9, the unrest turned violent. The Singha Durbar (prime minister's office) and the Parliament complex were set on fire, and Prime Minister K.P. Sharma Oli resigned under pressure.<sup>3</sup> The government lifted the ban on September 9, but not before at least 72 people were killed and over 2,000 were injured in clashes.<sup>4</sup> The Singha Durbar government complex in Kathmandu burned during the Gen Z protests on September 8-9, 2025. The fire and resulting crisis forced the prime minister's resignation, highlighting how strongly the social media ban and corruption issues motivated the youth.

Reports indicate that the Nepalese youth had been posting videos that exposed politicians' luxurious lifestyles and demanded accountability until the government cracked down on the platforms.<sup>5</sup> Officials justified the ban as a legal measure, accusing the platforms of failing to register local offices and enabling misinformation and fraud.<sup>6</sup> Critics viewed it as a political tactic to stifle dissent ahead of elections.<sup>7</sup> In reality, the ban backfired. Protesters organised

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<sup>1</sup> Ministry of Communications and Information Technology (Nepal), Press Release (4 September 2025).

<sup>2</sup> Kathmandu Post (Kathmandu, 6 September 2025).

<sup>3</sup> BBC News, 'Nepal PM Resigns Amid Violent Protests' (9 September 2025).

<sup>4</sup> Human Rights Watch, 'Nepal: Internet Ban and Protest Violence' (Report, September 2025).

<sup>5</sup> Nepali Times (Kathmandu, 7 September 2025).

<sup>6</sup> *ibid.*

<sup>7</sup> The Himalayan Times (Kathmandu, 8 September 2025).

online using VPNs and Discord, which they called a “national convention,” and waved Nepal’s flag atop government buildings amidst the smoke.<sup>8</sup>

Protesters, primarily young “Gen Z” activists, climbed Kathmandu’s government buildings while holding the national flag in thick smoke. Ironically, social media remained the central organising hub even when it was offline, highlighting how vital these platforms are for modern speech and assembly.

## NEPAL’S CONSTITUTIONAL GUARANTEES AND MEDIA REGULATION

Nepal’s 2015 Constitution provides strong protection for freedom of expression and communication. Article 17(2)(a) guarantees every citizen the right to “freedom of opinion/thought/conscience and freedom of expression.”<sup>9</sup> Article 19 specifically prohibits prior censorship: “There shall be no prior censorship of publications and broadcasting or information dissemination, including electronic publication.”<sup>10</sup> The Constitution also states that “no means of communication shall be obstructed except in accordance with law.”<sup>11</sup> In other words, blocking online platforms or speech is generally unconstitutional unless the government can cite a valid law and meet strict requirements.

That said, the Constitution does allow for reasonable restrictions on speech in specific circumstances. For example, Article 17 permits laws to limit speech that threatens sovereignty, public order, communal harmony, or decency, or that involves defamation, contempt of court, and more.<sup>12</sup> Article 19 allows restrictions only to protect national integrity, good relations among federal units, caste/religious harmony, or to prevent incitement to criminal acts. All restrictions must be reasonable and for stated purposes.<sup>13</sup> Thus, Nepal’s Constitution protects citizens’ speech, including digital speech, as a fundamental right, limiting government actions to clear, proportional laws.

Nepal is also a party to international human rights treaties. It ratified the ICCPR in 1991,<sup>14</sup> committing to Article 19 standards (the right to seek, receive, and share information across

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<sup>8</sup> Annapurna Express (Kathmandu, 10 September 2025).

<sup>9</sup> Constitution of Nepal 2015, art 17(2)(a).

<sup>10</sup> *ibid* art 19(1).

<sup>11</sup> *ibid* art 19(3).

<sup>12</sup> *ibid* art 17(2).

<sup>13</sup> *ibid* art 19(2).

<sup>14</sup> International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), ratified by Nepal 1991, art 19.

borders) with restrictions only for narrow objectives, such as national security, public order, and the rights of others, subject to legality, necessity, and proportionality. In March 2025, UNESCO reviewed Nepal's draft social media Bill 2081 (meant to regulate platforms) and emphasised that any regulation must uphold the Constitution's free expression guarantees.<sup>15</sup> The Bill's creators claim it is not intended to suppress speech, but Nepal's independent press groups warn that laws requiring registration or strict controls could easily be misused.

## GOVERNMENT JUSTIFICATIONS FOR THE BAN

The Nepali government offered several legal reasons for its social media shutdown. Based on official statements and reports, its main arguments included -

**Regulatory Compliance:** Authorities argued that foreign-owned platforms had to appoint local representatives and register with the Ministry of Communications under a new law. By September 4, the government announced that several networks had "failed to register," so access would be suspended.<sup>16</sup>

**Public Order and Fraud:** The government claimed that online platforms spread fake news, misinformation, and committed fraud or harassment. It suggested that the ban was necessary to maintain public order and security in light of viral content.<sup>17</sup>

**National Security:** Officials hinted that foreign-hosted social media might threaten Nepal's sovereignty or be exploited by hostile actors. This reasoning echoes similar "security" justifications used elsewhere, though specific threats in Nepal were not disclosed.<sup>18</sup>

**Political Considerations:** Some analysts believe the timing was linked to upcoming local elections. Reports indicated that ruling parties felt threatened by new political voices using social media and may have used the ban to hinder their momentum.<sup>19</sup>

These arguments reflect the government's viewpoint, but each raises constitutional concerns. Even if the state can address speech for security or fraud reasons, any measures must still adhere to the legal standards set by the Constitution.

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<sup>15</sup> UNESCO, 'Comments on Nepal Social Media Bill 2081' (Advisory Note, March 2025).

<sup>16</sup> Ministry of Communications (n 1).

<sup>17</sup> The Himalayan Times (n 7).

<sup>18</sup> *ibid.*

<sup>19</sup> Nepali Times (n 5).

## CONSTITUTIONAL LIMITS ON SPEECH IN NEPAL

Under Nepal's framework for fundamental rights, blanket censorship is generally forbidden. Article 19 bans prior restraint (pre-publication bans) unless Parliament has explicitly enacted a law allowing it.<sup>20</sup> The Supreme Court of Nepal had warned that any crackdown on social media should follow due process. Just before the ban, the highest court instructed the government to draft "appropriate legislation" for digital regulation; it did not authorise the executive to impose an ad hoc prohibition.<sup>21</sup> Thus, the government's sweeping decree on September 4 exceeded its authority by implementing a blanket shutdown without new legislation.

### EXAMINING THE BAN ALONGSIDE CONSTITUTIONAL REQUIREMENTS REVEALS CLEAR CONFLICTS

**Prior restraint:** Article 19(1) prohibits prior censorship of any "electronic publication." Shutting down all access to social media essentially constitutes prior censorship on a large scale. The Constitution permits only "reasonable restrictions" enacted by law and on specific grounds (e.g., defamation, incitement). A blanket ban cannot align with these limitations.<sup>22</sup>

**Freedom of Communication:** Article 19(3) states that "no means of communication shall be obstructed except in accordance with law." Any internet shutdown requires a clear legal basis and due process. In this situation, no new statute was cited as authorising the ban; it was an executive order. The Annapurna Express editorial notes that this means the ban is "neither legal nor constitutional" and violates Article 19.<sup>23</sup>

**Proportionality and Necessity:** The restrictions clause in Article 17 only allows limits that are "reasonable" and necessary for national sovereignty, public order, decency, etc. A wide-ranging social media blackout, affecting millions of peaceful users, cannot be considered narrowly tailored. International standards (ICCPR Article 19(3)) state that any restriction must be lawful, necessary, and proportionate. The Nepal ban failed these tests by indiscriminately blocking all users and even disrupting family communications abroad.<sup>24</sup>

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<sup>20</sup> Constitution of Nepal 2015, art 19.

<sup>21</sup> Supreme Court of Nepal, Directive Order on Social Media Regulation (July 2025).

<sup>22</sup> Constitution of Nepal 2015, art 19(1).

<sup>23</sup> Annapurna Express (n 8).

<sup>24</sup> ICCPR, art 19(3).

In summary, Nepal's laws favour free expression. Only a focused, time-bound response to a genuine emergency (e.g., a narrowly defined violent plot) could justify a digital blackout, and even then, it must come through legislation or a transparent order. Nepal's summary ban on September 4, issued without parliamentary support or judicial review, seems to surpass constitutional limits. As one Nepali commentator noted, "This ban is unconstitutional, arbitrary, and unlawful. It must be immediately repealed."

### **COMPARATIVE PERSPECTIVE: INDIA'S FRAMEWORK ON ONLINE SPEECH**

Indian law provides a useful comparison. India's Constitution also guarantees free speech while allowing limited restrictions. Article 19(1)(a) ensures the right to "freedom of speech and expression." Article 19(2) lists specific grounds on which Parliament can impose "reasonable restrictions" (sovereignty of India, security, public order, decency, defamation, etc.).<sup>25</sup> Indian courts have interpreted these provisions strictly regarding digital speech. Key points from Indian case law include -

**Internet as a Speech Medium:** The Supreme Court has explicitly recognised that the internet serves as a platform for exercising free speech. In *Anuradha Bhasin v. Union of India* (2020), the Court found that restrictions on internet access trigger Article 19 protections (even if it stopped short of declaring internet access a fundamental right).

**Strict Necessity Test:** In *Anuradha Bhasin*, any government-imposed internet shutdown must be "necessary and proportionate, lawful, transitory, limited in scope," and subject to prompt judicial review. In practice, this implies that only emergencies involving serious violence may justify a temporary shutdown.<sup>26</sup>

**No Blanket Curbs:** Indian courts have cautioned that blocking an entire platform is not permissible under general blocking powers. For instance, the Supreme Court noted that Section 69A of the IT Act (which authorises content takedown) targets specific websites "not to restrict/block the internet as a whole." The government cannot invoke Section 69A to justify a nationwide social media blackout.<sup>27</sup>

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<sup>25</sup> Constitution of India 1950, arts 19(1)(a), 19(2).

<sup>26</sup> *Anuradha Bhasin v Union of India* (2020) 3 SCC 637.

<sup>27</sup> Information Technology Act 2000 (India), s 69A.

**Disallowed Censorship:** In *Shreya Singhal v. Union of India* (2015), the Court annulled Section 66A of the IT Act, which criminalised “offensive” posts likely to cause annoyance or ill will. The Court found this law too broad and in violation of Article 19, stating that vague terms like “annoyance” could chill protected speech. The implication is clear: Indian law bans vague or sweeping restrictions on online expression.<sup>28</sup>

In summary, Indian law mandates that any restriction on digital speech be based on clear legal authority and carefully tailored. Government actions like internet shutdowns and social media blocks have faced numerous challenges. For instance, following the revocation of Jammu & Kashmir’s special status, the Supreme Court overturned a year-long communications blackout by applying the necessity-proportionality test. In contrast, arbitrary or long-term restrictions (such as several shutdowns during farmer protests or exam periods) have been criticised as unconstitutional because they disregard these principles.

## CONCLUSION

The events surrounding the Nepal protests highlight the conflict between government control and citizen rights in the digital age. While states may encounter real challenges from online misinformation or unrest, constitutional democracy requires that any speech restrictions be narrowly justified and legally supported. Under Nepal’s Constitution, and by comparison to India’s, broad social media bans exceed acceptable limits. They represent prior censorship and an unprecedented obstruction of communication without parliamentary approval or evidence of an actual emergency. Both Nepali and Indian courts have stressed that free expression, including through the internet, is the norm, and restrictions are the exception.

Given these legal standards, Nepal’s sweeping shutdown was almost certainly unconstitutional. It failed the essential tests of proportionality and legality: no emergency law was enacted, no focused approach addressed actual criminal content, and it caused significant collateral damage to ordinary citizens. International law supports that such measures violate human rights commitments unless strictly necessary. As the *Annapurna Express* editorial states, “In a democracy, global digital connectivity cannot be arbitrarily censored. Any restrictions on fundamental freedoms must be lawful, proportionate, and strictly necessary.”

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<sup>28</sup> *Shreya Singhal v Union of India* (2015) 5 SCC 1.

In both Nepal and India, courts have made it clear that rights are the rule and restrictions the exception. A state attempting to silence speech through a blanket ban “stifles criticism, diminishes press freedom, and drives dissent underground.” The Gen Z protests demonstrated that suppression can be counterproductive: young people quickly found alternatives and turned social media into a de facto “national convention” to replace the closed Parliament. Moving forward, Nepal should repeal the ban and pursue any social media reforms through open legislative debate, honouring constitutional guarantees. Only then can it address security concerns while respecting the fundamental right to free expression enshrined in both Nepal’s and India’s constitutions.