
TELECOMMUNICATION SHUTDOWNS IN INDIA: PROPORTIONALITY AND LEGALLY JUSTIFIED LIMITATION ON FUNDAMENTAL RIGHTS

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ABSTRACT

Digital connectivity has become integral to the exercise of constitutional freedoms, economic activity and access to essential services. In India, temporary suspension of telecommunication services has nevertheless remained an executive response to threats involving public order, public safety and national security. This article attempts to answer to what extent telecommunication shutdowns authorized under Indian law constitute proportionate and legally justified limitations upon Fundamental Rights. Adopting doctrinal and comparative methodologies, it examines the transition from the Indian Telegraph Act 1885 and the 2017 Suspension Rules to Section 20 of the Telecommunication Act 2023 and the Telecommunications (Temporary Suspension of Services) Rules 2024, and evaluates that framework against Articles 14, 19 and 21 of the Indian Constitution. The article argues that the 2023-24 framework represents meaningful statutory improvement. The 2024 Rules require publication, recorded reasons, defined geographical and services scope, a maximum duration of fifteen days, executive review and consideration of whether the statutory objective can be achieved by other reasonable means. Yet, the regime does not fully constitutionalize shutdown power. Structured proportionality, independent oversight and express balancing between the severity of rights interference and the asserted public interest remain incomplete. Constitutional legitimacy therefore continues to depend substantially upon judicial doctrine, particularly *Anuradha Bhasin* and the Supreme Court's wider proportionality jurisprudence. The article concludes that shutdowns may be justified only exceptionally and proposes reforms designed to embed legality, necessity, proportionality, transparency and independent accountability more firmly within the statutory regime.

1. INTRODUCTION AND RESEARCH FRAMEWORK

1.1 INTRODUCTION

Internet and mobile communication now mediate political speech, trade, education, journalism, banking and access to public services. Suspending telecommunications, therefore, does more than just interrupt infrastructure; it may substantially restrict the practical exercise of constitutional rights. At the same time, digital networks may facilitate rapid dissemination of inflammatory material, coordination of violence and threats to national security. The constitutional problem is consequently not whether the State may ever restrict telecommunications, but when such restrictions remain legally justified within a constitutional democracy. India's legal framework has recently undergone significant reform. Shutdowns were formerly governed principally by Section 5(2) of the Indian Telegraph Act 1885 and the Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules 2017.¹ Section 20(2)(b) of the Telecommunications Act 2023 now provides the principal statutory authority for temporary suspension, while the Telecommunications (Temporary Suspension of Services) Rules 2024 superseded the 2017 Rules and introduced a revised procedural framework.² The constitutional baseline is *Anuradha Bhasin v Union of India*. The Supreme Court did not recognize an autonomous fundamental right to internet access but held that freedom of speech and expression and freedom to practice a profession or carry on trade through the internet are constitutionally protected under Articles 19(1)(a) and 19(1)(g).³ Restriction must therefore satisfy constitutionally permissible limitations and proportionality. The Court also rejected indefinite suspension, required publication of suspension orders and emphasized review of continuing restrictions.⁴

The question raised by the new framework is whether these constitutional principles have been adequately incorporated into executive decision-making. This article argues that they have been incorporated only partially. The 2024 Rules strengthen the previous regime through requirements concerning reasons, geographical and service specificity, duration, review and consideration of whether statutory objectives can be achieved by other reasonable means.⁵

¹ Indian Telegraph Act 1885, s 5(2); Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules 2017, GSR 998(E), *Gazette of India* (Extraordinary, Pt II, sec 3(i), 7 August 2017).

² Telecommunications Act 2023, s20(2)(b); Telecommunications (Temporary Suspension of Services) Rules 2024, GSR 724(E), *Gazette of India* (Extraordinary, Pt II, sec 3(i), 22 November 2024).

³ *Anuradha Bhasin v Union of India* (2020) 3 SCC 637, [26]-[28], [152(a)]-[152(b)].

⁴ *ibid* [96]-[101], [152(d)], [152(f)]-[152(g)].

⁵ Telecommunications (Temporary Suspension of Services) Rules 2024, rr 3,5.

Nevertheless, the framework does not expressly require the complete balancing exercise associated with proportionality *stricto sensu*, while mandatory review remains principally executive. The article therefore distinguishes between administrative modernization and constitutional modernization. The former updates governmental powers and procedures; the latter embeds fundamental-rights constraints within their legal design. Its central argument is that the 2023-24 framework represent meaningful progress towards constitutionalisation, but that this process remains incomplete.

1.2 RESEARCH PROBLEM, QUESTION AND OBJECTIVES

The central problem is the distinction between statutory authorization and constitutional justification. A suspension may fall within the language of Section 20, yet remain disproportionate because of its geographical scope, duration, affected services or impact upon lawful users. The existence of statutory power is therefore the beginning rather than the conclusion of constitutional analysis.

This distinction is particularly important because telecommunication shutdowns operate immediately, whereas judicial review is generally retrospective. Restrictions upon speech, commercial activity or access to information may produce consequences that cannot meaningfully be reversed once a court subsequently determines that executive action was unjustified. Constitutional safeguards must therefore operate at the point of administrative decision making and not solely through subsequent litigation.

The principal research question is:

To what extent do telecommunication shutdowns in India, as authorized under Indian law, constitute a proportionate and legally justified limitation on fundamental rights?

The article pursues four related objectives: to trace the historical development of shutdowns authority; to identify the constitutional rights engaged under Articles 14, 19 and 21; to evaluate Section 20 and the 2024 Rules against the requirements of legality and proportionality; and to determine whether international and comparative constitutional standards support additional legislative safeguards.

1.3 SCOPE AND METHODOLOGY

The research adopts a principally doctrinal methodology, analyzing the Constitution of India, telecommunications legislation, delegated legislation and leading Supreme Court authorities, particularly *People's Union for Civil Liberties v Union of India*, *Shreya Singhal v Union of India*, *Modern Dental College and Research Centre v State of Madhya Pradesh*, *Justice KS Puttaswamy (Retd) v Union of India* and *Anuradha Bhasin*.⁶ These authorities are examined collectively to construct the applicable requirements of legality, non-arbitrariness, necessity, proportionality and procedural accountability.

The article concentrates upon government ordered temporary suspension of telecommunication services, particularly internet connectivity. Content blocking under Section 69A of the Information Technology Act 2000, interception and surveillance are considered only where they illuminate less restrictive regulatory alternatives or relevant safeguards.⁷ The research does not undertake an empirical survey of every shutdown imposed in India, evidence concerning practical consequences is used primarily to contextualize the doctrinal analysis. A limited comparative methodology supplements the domestic analysis. The International Covenant on Civil and Political Rights, United Nations materials and selected approaches from the United Kingdom, United States and European human-rights jurisprudence are treated as persuasive rather than binding authorities.⁸ Comparison is functional rather than transplant oriented, its purpose is to identify principles such as narrow tailoring, independent scrutiny and effective remedy that may illuminate shortcomings within India's constitutional framework.

1.4 LITERATURE REVIEW AND RESEARCH CONTRIBUTION

Existing scholarship provides important foundations for analyzing telecommunication shutdowns. Bhardwaj, Nayak, Dandamudi, Singh and Handa examine Indian internet shutdowns through Article 19, particularly legality, permissible grounds and reasonableness.⁹

⁶ *People's Union for Civil Liberties v Union of India* (1997) 1 SCC 301; *Shreya Singhal v Union of India* (2015) 5 SCC 1; *Modern Dental College and Research Centre v State of Madhya Pradesh* (2016) 7 SCC 353; *Justice KS Puttaswamy (Retd) v Union of India* (2017) 10 SCC 1; *Anuradha Bhasin* (n 3).

⁷ Information Technology Act 2000, s 69A; *Shreya Singhal* (n 6) [109]-[114].

⁸ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 19; UN Human Rights Committee, 'General Comment No 34: Article 19: Freedoms of Opinion and Expression' (12 September 2011) UN Doc CCPR/C/GC/34, paras [21]-[36].

⁹ Shrutanjaya Bhardwaj, Nakul Naya, Raja Venkata Krishna Dandamudi, Sarvjeet Singh and Veda Handa, 'Rising Internet Shutdowns in India: A Legal Analysis' (2020) 16(1) *Indian Journal of Law and Technology* 122, 122-158.

Their analysis demonstrates that statutory authority alone cannot establish constitutional validity but principally addresses the Telegraph Act and the earlier suspension framework and therefore predates the Telecommunications Act 2023.

Pranesh Prakash evaluates Indian shutdowns through international human-rights standards of legality, legitimate purpose, necessity, proportionality, transparency and effective remedies.¹⁰ His analysis demonstrates the value of international standards as a complement to domestic constitutional doctrine. More recent scholarship has remained skeptical of the effectiveness of judicial controls. Peerzada, Sharma and Kannan argue, particularly in Jammu and Kashmir, that proportionality may provide limited protection where exceptional restrictions become normalized.¹¹ Malik similarly examines the continuing tension between internet freedom, State control and compliance with legal safeguards.¹² Together, this literature shifts attention from the formal existence of constitutional standards towards their practical and institutional effectiveness. The theoretical foundation is supplied by proportionality scholarship. Barak conceptualizes proportionality as a structured relationship between governmental objectives and rights-restricting means, while Alexy situates balancing within conflicts between constitutional principles.¹³ Indian jurisprudence has adapted structured proportionality through *Modern Dental College, Puttaswamy* and, specifically in relation to internet restrictions, *Anuradha Bhasin*.¹⁴

The principal research gap arises from the interaction between this jurisprudence and the new 2023-24 statutory regime. Earlier scholarship understandably criticized a framework that preceded the present Rules. The 2024 Rules now expressly require consideration of reasonable alternatives and introduce safeguards concerning publication, specificity, duration and review. It would therefore be analytically inaccurate merely to reproduce critiques of the 2017 regime. This article instead asks whether those reforms amount to the constitutionalisation of shutdown power. Its contribution is to argue that the current framework occupies an intermediate position,

¹⁰ Pranesh Prakash, 'Internet Blocking and Shutdowns in India and International Human Rights Law' (2024) 5(3) *Indian Public Policy Review* 38, 38-76.

¹¹ Raauf Ahmad Peerzada, Amrita Sharma and Samyuktha Kannan, 'The Jurisprudence of Digital Blackout: Law and its Exceptions in Jammu and Kashmir' (2025) *Human Geography* OnlineFirst <https://doi.org/10.1177/19427786251389340> accessed 28 July 2026.

¹² Taniya Malik, 'Freedom of Internet and State Control: A Case Study on Internet Shutdowns in India' (2025) 19(2) *Masaryk University Journal of Law and Technology* 97.

¹³ Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (CUP 2012); Robert Alexy, *A Theory of Constitutional Rights* (Julian Rivers tr, OUP 2002).

¹⁴ *Modern Dental College and Research Centre v State of Madhya Pradesh* (2016) 7 SCC 353 [60]-[65]; *Justice KS Puttaswamy (Retd) v Union of India* (2017) 10 SCC 1; *Anuradha Bhasin v Union of India* (2020) 3 SCC 637, [50]-[71].

necessity and elements of narrow tailoring have moved from judicial doctrine into delegated legislation, but structured balancing and independent institutional oversight remain underdeveloped. The distinction between administrative and constitutional modernization provides the organizing thesis for the analysis that follows.

1.5 STRUCTURE AND CONCLUSION

Chapter Two traces the evolution of Indian telecommunications regulation from colonial control to the 2023-24 framework. Chapter Three examines the constitutional rights implicated by shutdowns and develops proportionality as the governing standards. Chapter Four applies that standard to the current statutory framework. Chapter Five evaluates international and comparative constitutional standards before proposing legislative reforms and answering the research question. The article proceeds from the premise that shutdown powers are not unconstitutional merely because they interfere substantially with rights. Their legitimacy depends upon the quality of their justification and the safeguards governing their exercise. India's current framework represents meaningful progress, but the central question remains whether its safeguard is sufficient to ensure that shutdowns remain exceptional, necessary and proportionate exercises of State power.

2. EVOLUTION OF TELECOMMUNICATION REGULATION AND SHUTDOWN POWERS IN INDIA

2.1 INTRODUCTION

The constitutional legitimacy of contemporary telecommunication shutdowns cannot be assessed without examining the legal history from which executive control over communication developed. Indian telecommunication law originated not as a rights-protecting framework, but under the colonial Indian Telegraph Act 1885, which concentrated extensive communication authority in government. Although subsequent reforms transformed the technological and regulatory environment, elements of this executive-centered structure persisted. This chapter traces the evolution from the Telegraph Act through liberalization, the Information Technology Act 2000, the Temporary Suspension of Telecom Services Rules 2017 and finally the Telecommunications Act 2023 and the Telecommunications (Temporary Suspension of Services) Rules 2024. It argues that administrative modernization has historically developed faster than constitutional restraint, although the 2024 Rules represent an

important movement towards incorporating rights protective safeguards into the statutory framework.

2.2 COLONIAL FOUNDATION: THE INDIAN TELEGRAPH ACT 1885

The Indian Telegraph Act 1885 governed telecommunications for more than a century. Section 4 granted the Central Government an exclusive privilege over the establishment, maintenance and operation of telegraphs, reflecting a regulatory model founded upon governmental control rather than communication rights.¹⁵ More importantly, Section 5 authorized exceptional intervention. On the occurrence of a ‘public emergency’ or in the interests of ‘public safety’, government could temporarily possess licensed telegraph and, for specified purposes including security of the State and public order, intercept, detain or prevent transmission of messages.¹⁶ Its constitutional significance lay in this institutional design. The executive largely determined both whether exceptional circumstances existed and whether communication should consequently be restricted. The legislation contained no structured requirement to consider less restrictive measures or balance governmental objectives against individual rights. After the Constitution entered into force, courts began supplying safeguards absent from the statutory architecture. In *People’s Union of Civil Liberties v Union of India*, concerning telephone interception, the Supreme Court recognized the constitutional significance of communications privacy and imposed procedural safeguards upon Section 5(2).¹⁷ The case established an important pattern: constitutional restraint developed judicially within a statutory framework originally designed around executive authority.

2.3 LIBERALISATION AND REGULATORY TRANSFORMATION

Economic liberalization substantially changed telecommunications governance without replacing the Telegraph Act’s emergency architecture. The Telecom Regulatory Authority of India Act 1997 established the Telecom Regulatory Authority of India (TRAI) as an independent regulator in response to increasing private participation and the transition away from governmental monopoly.¹⁸ The reform modernized market regulation, but emergency communications powers continued principally under the Telegraph Act.

¹⁵ Indian Telegraph Act 1885, s 4.

¹⁶ *ibid* s 5(1)-(2).

¹⁷ *People’s Union for Civil Liberties v Union of India* (1997) 1 SCC 301.

¹⁸ Telecom Regulatory Authority of India Act 1997, s 3.

The Information Technology Act 2000 subsequently addressed electronic communications and digital networks. Section 69A empowered the Central Government to block public access to specified online information.¹⁹ In *Shreya Singhal v Union of India*, the Supreme Court upheld Section 69A partly because its framework contained procedural safeguards, including written reasons and review.²⁰ The decision is significant to the evolution of shutdown law because it demonstrated that restrictions upon digital communications are assessed not only by their objectives but also by the procedural safeguards controlling executive power.

2.4 THE 2017 SUSPENSION RULES: FROM INTERCEPTION TO NETWORK SUSPENSION

The Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules 2017 created India's first specific procedural framework for temporary telecommunications suspension.²¹ Orders were ordinarily reserved to the Union or State Home Secretary, emergency orders issued by an authorized officer required confirmation within twenty-four hours. Reasons were required, while executive Review Committees examined compliance with Section 5(2).²² These safeguards introduced procedural regularity but remained limited. Review was internal to the executive, and the original Rules imposed no maximum duration. The 2020 Amendment subsequently restricted individual suspension orders to fifteen days.²³ The constitutional deficiencies of this framework become particularly important in *Anuradha Bhasin v Union of India*, following extensive communication restrictions in Jammu and Kashmir. The Supreme Court held that freedom of speech and expression and freedom of trade or profession through the internet receive protection under Article 19.²⁴ It further required publication of suspension orders, rejected indefinite shutdowns and subjected restrictions to proportionality, including consideration of less restrictive measures.²⁵ *Anuradha Bhasin* therefore marked a critical transition. Statutory authority was no longer sufficient as the exercise of shutdown powers required constitutional justification. Yet, these protections remained predominantly products of judicial interpretation rather than express features of the

¹⁹ Information Technology Act 2000 (India), s 69A.

²⁰ *Shreya Singhal v Union of India* (2015) 5 SCC 1 [109]-[114].

²¹ Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules 2017, GSR 998(E), *Gazette of India* (Extraordinary, Pt II, sec 3(i), 7 August 2017).

²² *ibid* r 2(1), (5)-(6).

²³ Temporary Suspension of Telecom Services (Amendment) Rules 2020, GSR 694(E), *Gazette of India* (Extraordinary, pt II, sec 3(i), 10 November 2020), r 2.

²⁴ *Anuradha Bhasin v Union of India* (2020) 3 SCC 637, [26]-[28].

²⁵ *ibid* [70]-[71], [96]-[101], [152].

legislative framework.

2.5 THE TELECOMMUNICATIONS ACT 2023

The Telecommunications Act 2023 repealed the Telegraph Act 1885 and substantially modernized India's telecommunications legislation.²⁶ Section 20 now provides the principal statutory basis for temporary suspension. Although the legislative source has changed, its emergency grounds retain significant continuity with the previous regime, including 'public emergency', 'public safety', State security and public order.²⁷ This continuity is more important for the article than a detailed restatement of Section 20. Repealing colonial legislation removed an outdated statutory foundation but did not by itself transform the underlying distribution of executive authority. The transition was deliberately evolutionary, the Act's savings provisions preserved existing rules and actions where consistent with the new legislation.²⁸ The constitutional significance of the reform consequently depends substantially upon the procedural framework governing how Section 20 is exercised.

2.6 THE TELECOMMUNICATIONS (TEMPORARY SUSPENSION OF SERVICES) RULES 2024

The Telecommunications (Temporary Suspension of Services) Rules 2024 superseded the 2017 Rules and materially strengthened that framework. Orders remain principally authorized by the Union or State Home Secretary, with emergency authorization requiring confirmation within twenty-four hours.²⁹ More significantly, Rule 3 requires publication and recorded reasons, specification of the affected geographical area and telecommunication service, and limits individual orders to fifteen days. Rule 3(4) additionally requires the competent authority to consider whether the statutory objective could be achieved through 'other reasonable means'.³⁰ The latter represents an important development because an aspect of the necessity analysis emphasized in *Anuradha Bhasin* has moved from judicial doctrine into delegated legislation. The reform is nevertheless incomplete. Review remains principally executive, while consideration of alternative means does not expressly reproduce the complete

²⁶ Telecommunications Act 2023, s 60.

²⁷ *ibid* s 20(2).

²⁸ *ibid* ss 60-61.

²⁹ Telecommunications (Temporary Suspension of Services) Rules 2024, GSR 724(E), *Gazette of India* (Extraordinary, Pt II, sec 3(i), 22 November 2024), rr 2(b), 3(1).

³⁰ *ibid* r 3(2)-(4).

constitutional proportionality inquiry. The 2024 framework therefore neither merely continues the previous regime nor fully constitutionalizes shutdown power. Instead, it demonstrates the gradual incorporation of constitutional safeguards into an executive-centered regulatory structure.

2.7 CONCLUSION

The historical development of Indian telecommunication regulation reveals two simultaneous trajectories. The first is substantial administrative modernization as monopoly has given way to regulated competition, digital communications have been brought within modern legislation, and shutdown powers are now governed by more detailed procedural rules. The second is a slower process of constitutionalisation. The Telegraph Act created broad executive powers without a rights-based architecture. *PUCL* and *Anuradha Bhasin* subsequently supplied constitutional safeguards through judicial interpretation, while the 2024 Rules have incorporated some of those principles, particularly specificity, temporariness, publication and consideration of reasonable alternatives. Yet independent oversight and a fully structured statutory proportionality test remain absent. The transition from the Telegraph Act 1885 to the Telecommunications Act 2023 therefore supports the article's central distinction between administrative and constitutional modernization. The next chapter examines the constitutional rights implicated by shutdowns and develops the proportionality standards against which the adequacy of the current framework must ultimately be judged.

3. FUNDAMENTAL RIGHTS AND THE DOCTRINE OF PROPORTIONALITY: CONSTITUTIONAL LIMITS ON TELECOMMUNICATION SHUTDOWNS

3.1 INTRODUCTION

Statutory authority to suspend telecommunications does not determine the constitutional validity of its exercise. Although Section 20 of the Telecommunications Act 2023 authorizes suspension in specified circumstances, executive action remains subject to Part III of the Constitution. A shutdown may therefore possess a lawful statutory basis, yet remain unconstitutional because its territorial scope, duration, or impact upon protected freedoms is disproportionate to the threat invoked. This is particularly significant because shutdowns operate infrastructurally. Unlike content blocking, which targets particular information, network suspension disables a medium through which large number of individuals engage in

lawful expression, commerce and communication. The constitutional burden consequently extends beyond those whose activities provide the justification for governmental interventions.

In *Anuradha Bhasin v Union of India*, the Supreme Court did not recognize a freestanding fundamental right to internet access. Rather, it held that freedom of speech and expression and freedom to practice a profession or carry on trade through the internet is constitutionally protected under Articles 19(1)(a) and 19(1)(g).³¹ This constitutional protection therefore attaches to established rights exercised through digital infrastructure rather than to the technology itself. This chapter argues that Articles 14, 19 and 21 impose distinct but overlapping constraints upon shutdown powers. Article 19 provides the most direct substantive protection, Article 21 reinforces liberty, dignity, privacy and procedural fairness and Article 14 constrains arbitrary executive action. Proportionality provides the principal framework through which these restrictions are constitutionally assessed.

3.2 ARTICLE 19(1)(a): DIGITAL EXPRESSION AND THE PROBLEM OF OVERBREADTH

Article 19(1)(a) guarantees freedom of speech and expression, while Article 19(2) permits reasonable restrictions only on specified grounds including sovereignty and integrity, security of the State, public order and incitement to an offence.³² A governmental invocation of one of these grounds is therefore necessary, but not sufficient. The restriction must also remain constitutionally reasonable. Indian jurisprudence recognized the relationship between constitutional speech and communications infrastructure before widespread internet access. In *Secretary, Ministry of Information and Broadcasting v Cricket Association of Bengal*, the Supreme Court held that freedom of expression includes the right to disseminate and receive information and recognized the importance of electronic media to that freedom.³³ Digital communications intensify this relationship because an individual may simultaneously act as speaker, recipient, publisher and organizer. *Shreya Singhal v Union of India* subsequently demonstrated that the characteristics of the internet do not dilute Article 19 protection. The Court invalidated Section 66A of the Information Technology Act 2000 because vague and overbroad restrictions extended beyond the constitutionally permissible grounds in Article

³¹ *Anuradha Bhasin v Union of India* (2020) 3 SCC 637, [26]-[28], [152(a)]-[152(b)].

³² Constitution of India 1950, art 19(1)(a), (2).

³³ *Secretary, Ministry of Information and Broadcasting, Government of India v Cricket Association of Bengal* (1995) 2 SCC 161, [43]-[45], [75].

19(2).³⁴ Its distinction between discussion, advocacy and incitement was particularly significant, governmental concern about harmful communications cannot justify indiscriminate suppression of lawful expression merely because the internet increases the speed and reach of speech.³⁵ By contrast, the Court upheld Section 69A's blocking mechanism in part because it operated through defined statutory grounds, reasoned orders and procedural safeguards.³⁶ This comparison exposes the constitutional difficulty with network-wide shutdowns. Targeted blocking and complete or substantial suspension occupy different positions on a spectrum of interference. Where the threatened harm arises from particular content, actors or locations, disabling communications for a much larger class of lawful users risks substantial overbreadth.

Anuradha Bhasin made that problem explicit. The Court held that expression through the internet is protected by Article 19(1)(a) and required restrictions to satisfy proportionality.³⁷ It stressed that the State must consider the nature and territorial extent of the restriction, its duration and the availability of alternatives.³⁸ The constitutional inquiry therefore concerns the fit between the identified danger and the breadth of the governmental response. This does not mean that blanket restrictions are constitutionally impossible. An imminent threat may sometimes be so geographically dispersed or technologically inseparable that narrower intervention would be ineffective. However, proportionality reverses the analytical presumption implicit in broad administrative discretion, the scale of the threat must justify the scale of the restriction. The State cannot infer the necessity of disabling an entire communications medium merely from the existence of some unlawful use of that medium.

3.3 ARTICLE 19(1)(g): ECONOMIC FREEDOM AND CUMULATIVE CONSTITUTIONAL HARM

Article 19(1)(g) protects the right to practice a profession and carry on an occupation, trade or business, subject to reasonable restrictions under Article 19(6).³⁹ In an economy increasingly dependent upon digital payments, banking, logistics, professional communications and online commerce, the economic consequences of network restrictions form part of the constitutional analysis rather than merely collateral policy concerns. In *Anuradha Bhasin*, the Court expressly

³⁴ *Shreya Singhal v Union of India* (2015) 5 SCC 1 [83]-[90].

³⁵ *ibid* [13]-[14], [89]-[90].

³⁶ *ibid* [109]-[114].

³⁷ *Anuradha Bhasin* (n 3) [27]-[28], [70]-[71].

³⁸ *ibid* [70]-[76].

³⁹ Constitution of India 1950, art 19(1)(g), (6).

recognized constitutional protection for trade and professional activity conducted through the internet.⁴⁰ The significance of this holding lies not in creating immunity for digitally conducted businesses but in requiring executive authorities to account for economic liberty when determining the proportionality of a shutdown.

Earlier Article 19 jurisprudence already supplied the underlying logic. In *Mohammed Faruk v State of Madhya Pradesh*, the Supreme Court stated that when assessing restrictions upon business or profession, courts must consider the direct impact upon the affected right, the public interest pursued, the necessity of the restriction and the possibility of achieving the objective through a less drastic measure.⁴¹ *Anuradha Bhasin* drew upon this approach in its own analysis.⁴² Shutdowns therefore generate cumulative rather than isolated constitutional burdens. The same order may simultaneously disable political expression and economically productive activity. This matters particularly at the balancing stage of proportionality. A restriction that appears tolerable when viewed only through the prism of speech may look substantially more burdensome when its commercial and livelihood effects are included. Constitutional analysis should consequently evaluate the total interference generated by the measure rather than artificially separating each right affected.

3.4 ARTICLE 21: LIBERTY, PRIVACY AND DIGITALLY DEPENDENT INTERESTS

Article 21 prohibits deprivation of life or personal liberty except according to procedure established by law.⁴³ Since *Maneka Gandhi v Union of India*, this requirement has entailed more than formal statutory authorization, governmental procedure affecting liberty must be fair, just and reasonable rather than arbitrary.⁴⁴ The digital dimension of Article 21 was considerably strengthened by *Justice KS Puttaswamy (Retd) v Union of India*. The Supreme Court recognized privacy as a fundamental right closely associated with dignity, autonomy and liberty and identified proportionality as an important protection against excessive governmental interference.⁴⁵ Chandrachud J explained that proportionality guards against an encroachment whose nature and quality are disproportionate to the law's purpose.⁴⁶ Shutdowns

⁴⁰ *Anuradha Bhasin* (n 3) [27], [152(b)].

⁴¹ *Mohammed Faruk v State of Madhya Pradesh* (1969) 1 SCC 853 para 10.

⁴² *Anuradha Bhasin* (n 3) [43]-[45].

⁴³ Constitution of India 1950, art 21.

⁴⁴ *Maneka Gandhi v Union of India* (1978) 1 SCC 248, 284, 281-84 (Bhagwati J).

⁴⁵ *Justice KS Puttaswamy (Retd) v Union of India* (2017) 10 SCC 1 [298]-[326] (Chandrachud J).

⁴⁶ *ibid* [310].

should nevertheless be distinguished analytically from surveillance. Interception or surveillance directly intrudes upon private communication, whereas a shutdown ordinarily prevents communication altogether. It would therefore be inaccurate to classify every suspension automatically as a privacy violation. Article 21 is relevant because telecommunication facilitates autonomy, private association and access to activities increasingly connected with dignified social participation, and because the procedure through which such access is restricted must itself satisfy constitutional standards.

Faheema Shirin RK v State of Kerala illustrates the emerging relationship between internet connectivity, education and privacy. Addressing restrictions on mobile-phone use within a women's hostel, the Kerala High Court held that internet access, in the circumstance before it, formed part of the right to education and privacy under Article 21.⁴⁷ The decision should not be elevated beyond its doctrinal status. It is a single judge High Court judgment arising in an educational context and cannot establish a nationwide Supreme Court recognized autonomous right to connectivity. Its importance instead lies in demonstrating that exclusion from digital infrastructure may impair the practical enjoyment of established rights. The judgment itself linked internet access to education and privacy rather than treating technology as an abstract constitutional entitlement. A similar issue arose in *Foundation for Media Professionals v Union Territory of Jammu and Kashmir*, where restrictions limiting mobile internet to 2G continued during the COVID-19 pandemic. Petitioners argued that inadequate connectivity impaired health information, online education, business and journalism.⁴⁸ The Court accepted that national security concerns and human rights required a reasonable and defensible adjustment, but declined to order immediate restoration of 4G connectivity, instead directing a Special Committee to reconsider the restrictions.⁴⁹ The case exposes an important limitation in rights protection. Recognition of proportionality is constitutionally significant, but its effectiveness depends upon institutional enforcement. Where a rights restriction is time sensitive, deferential or delayed review can leave the underlying harm substantially irreversible even if constitutional principles are formally acknowledged. The petitioners' claims specifically concerned health, education and occupational consequences occurring during the pandemic. This remedial dimension supports the article's wider argument that constitutional safeguards should

⁴⁷ *Faheema Shirin RK v State of Kerala*, WP(C) No 19716 of 2019 (Kerala HC, 19 September 2019) 20-25. The court concluded that internet access became part of the rights to education and privacy under art 21 in the context before it.

⁴⁸ *Foundation for Media Professionals v Union Territory of Jammu and Kashmir* (2020) 5 SCC 746 [3]-[6].

⁴⁹ *ibid* [12]. [22]-[23].

discipline executive decision making before and during a shutdown rather than depend exclusively upon retrospective litigation.

3.5 ARTICLE 14: FROM ARBITRARINESS TO STRUCTURED JUSTIFICATION

Article 14 guarantees equality before law and equal protection of the laws.⁵⁰ Its relevance to shutdowns is not confined to discrimination between individuals or territories. Indian constitutional law has also connected Article 14 with the prohibition of arbitrary State action. In *EP Royappa v State of Tamil Nadu*, the Supreme Court famously described equality and arbitrariness as antithetical concepts, while *Maneka Gandhi* integrated Articles 14, 19 and 21 into a broader requirement that State interference with liberty satisfy fairness and reasonableness.⁵¹ Yet arbitrariness and proportionality should not be collapsed into a single test. Article 14 asks whether governmental action is based on relevant and intelligible considerations rather than caprice, inconsistency or unsupported assertion. Proportionality goes further as even a rationally motivated and non-arbitrary measure may impose an excessive burden upon a constitutional right where a less restrictive alternative exists or where the benefits do not justify its costs.

This distinction is important for telecommunication regulation. An authority may rationally conclude that public disorder creates a genuine danger and therefore survive a basic arbitrariness challenge. It does not follow that disabling communication throughout an entire State is proportionate to Article 14 and proportionality therefore operates cumulatively, the former disciplines the quality, and consistency of administrative reasoning and the latter interrogates the relationship between ends and rights restricting means. Transparency connects these doctrines. In *Anuradha Bhasin*, the Government initially failed to place all relevant shutdown orders in the public domain. The Court held that affected persons must have access to orders restricting their rights if judicial challenge is to be meaningful.⁵² Publication performs more than an informational function. It permits examination of whether similar situations are treated consistently, whether territorial distinctions have rational justification and whether the reasons asserted correspond to the actual scope of the restriction. Reason giving is therefore an institutional precondition for both Article 14 review and proportionality.

⁵⁰ Constitution of India 1950, art 14.

⁵¹ *EP Royappa v State of Tamil Nadu* (1974) 4 SCC 3 [85]; *Maneka Gandhi* (n 44) 284.

⁵² *Anuradha Bhasin* (n 3) [15]-[18], [96]-[101], [152(d)].

3.6 PROPORTIONALITY: FROM REASONABLENESS TO STRUCTURED CONSTITUTIONAL REVIEW

Proportionality provides the doctrinal architecture connecting these rights. It asks not simply whether government has acted within its powers but whether the degree of interference is justified by the importance of the objective pursued. Robert Alexy's Theory of Constitutional Rights conceptualizes rights as principles capable of optimization and treats proportionality as arising from the need to reconcile competing constitutional principles.⁵³ Aharon Barak similarly divides proportionality into rational connection, necessity and proportionality *stricto sensu*, following the identification of a proper governmental purpose.⁵⁴ The first inquiry asks whether the measures can advance the objective as necessity asks whether an equally effective but less rights restrictive alternative exists, and balancing asks whether the social benefit produced by the measure justifies the constitutional harm it causes. The distinction between necessity and balancing is crucial. A measure may be the least restrictive means available yet still inflict a cost to rights that is excessive relative to the benefit achieved.

Indian constitutional law has progressively adopted this structured approach. In *Modern Dental College and Research Centre v State of Madhya Pradesh*, the Supreme Court explained that a rights restriction must pursue a proper purpose, be rationally connected to that purpose, be necessary and maintain an appropriate balance between competing interests.⁵⁵ The Court further treated proportionality as embedded within Article 19's requirement of reasonable restrictions.⁵⁶ *Puttaswamy* reinforced proportionality as an essential safeguard against arbitrary rights infringement, while *Anuradha Bhasin* brought the doctrine directly into telecommunications regulations.⁵⁷ The latter reproduced *Modern Dental College's* structured approach and emphasized appropriateness, necessity and the least restrictive measure. The judgment also recognized that proportionality cannot be reduced to mechanical balancing. It cautioned that national security and liberty must be evaluated with attention to what precisely is at stake.⁵⁸ The Court's proportionality discussion expressly drew upon *Puttaswamy*, and the structured methodology developed in *Modern Dental College*. This theoretical distinction has

⁵³ Robert Alexy, *A Theory of Constitutional Rights* (Julian Rivers tr, OUP 2002) 47-48, 66-69, 394-425.

⁵⁴ Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (CUP 2012) 3, 131-40, 317-40.

⁵⁵ *Modern Dental College and Research Centre v State of Madhya Pradesh* (2016) 7 SCC 353 [63]-[64].

⁵⁶ *ibid* [65].

⁵⁷ *Justice KS Puttaswamy (Retd) v Union of India* (2017) 10 SCC 1, [310], [325]; *Anuradha Bhasin* (n 3) [50]-[71], especially [60]-[72].

⁵⁸ *ibid* [47]-[50].

direct implications for the 2024 Rules. Rule 3(4) now requires the competent authority to consider whether the statutory objective can be achieved through other reasonable means.⁵⁹ That represents genuine constitutional progress because the necessity inquiry has moved, at least partially, from judicial doctrine into delegated legislation.

However, necessity is not synonymous with proportionality. Rule 3(4) does not expressly require the competent authority to conduct the final balancing exercise described by Barak, Alexy and the Supreme Court. Whether the marginal security benefits obtained through the chosen restriction are sufficient to justify its total interference with constitutional freedoms. A shutdown could therefore satisfy an alternatives analysis yet remain disproportionate *stricto sensu*. This distinction sharpens the article's central thesis. The present statutory framework has begun to constitutionalize executive decision making, but incompletely. It incorporates elements of temporal limitation, territorial specificity and necessity while leaving the final assessment of constitutional balance principally to judicial doctrine. Article 19(3) ICCPR permits restrictions upon expression only where provided by law and necessary for enumerated legitimate purposes.⁶⁰ The Human Rights Committee has stressed that proportionality must govern both the law authorizing restrictions and its administrative application, and that restrictions must be appropriate to their protective function and the least intrusive means among those capable of achieving the objective.⁶¹ These principles reinforce the constitutional trajectory already visible within Indian jurisprudence.

3.7 CONCLUSION

Telecommunication shutdowns do not engage a single, undifferentiated 'right to the internet'. Their constitutional significance arises because digital infrastructure has become a medium through which established rights are exercised. Article 19(1)(a) directly protects digital expression; Article 19(1)(g) protects professional and commercial activity conducted through digital networks; Article 21 contribute protections associated with liberty, dignity, privacy and fair procedure; and Article 14 constrains arbitrary and insufficiently reasoned executive action. Proportionality supplies the most rigorous framework for determining when interference with

⁵⁹ Telecommunications (Temporary Suspension of Services) Rules 2024, GSR 724(E), *Gazette of India* (Extraordinary, Pt II, sec 3(i), 22 November 2024), r 3(4).

⁶⁰ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 19(3).

⁶¹ UN Human Rights Committee, 'General Comment No 34: Article 19: Freedoms of Opinion and Expression' (12 September 2011) UN Doc CCPR/C/GC/34, paras [21]-[22], [33]-[35].

those rights remains justified. It demands more than statutory authority, a legitimate governmental purpose or even the existence of a rational security concern. The State must demonstrate an adequate relationship between the danger identified, the means employed, available alternatives and the cumulative constitutional burden imposed. Most importantly, the distinction between necessity and balancing reveals why the 2023-24 framework represents incomplete constitutional modernization. The 2024 Rules now require consideration of reasonable alternatives, but they do not expressly incorporate the complete structured proportionality analysis developed by the Supreme Court. Chapter Four therefore turns from constitutional doctrine to statutory evaluation, asking whether Section 20 and the 2024 Rules provide sufficiently strong safeguards to ensure that shutdown powers remain exceptional rather than merely administratively convenient.

4. TESTING INDIA'S TELECOMMUNICATION SHUTDOWN FRAMEWORK AGAINST PROPORTIONALITY

4.1 INTRODUCTION

Chapter Two demonstrated that the Telecommunications Act 2023 and the Telecommunications (Temporary Suspension of Services) Rules 2024 replace the earlier Telegraph Act framework while retaining substantial executive responsibilities for authorizing shutdowns. Chapter Three established the constitutional standards against which that power must be assessed. This chapter therefore does not reconsider the history or architecture of Section 20. Instead, it asks whether the exercise of the current statutory power is sufficiently constrained by proportionality. The analysis proceeds through three connected questions: whether shutdown orders demonstrate an adequate relationship between the identified threat and the restrictions imposed, whether less rights restrictive alternatives receive meaningful consideration, and whether the institutional mechanism governing reasons, publications and review provide effective protection against disproportionate interference. The chapter argues that the 2024 Rules have moved Indian law materially closer to the constitutional requirements articulated in *Anuradha Bhasin*, particularly by requiring consideration of alternative reasonable means.⁶² However, necessity is not equivalent to complete proportionality. The absence of an express balancing requirement, combined with predominantly executive review,

⁶² Telecommunications (Temporary Suspension of Services) Rules 2024, GSR 724(E), *Gazette of India* (Extraordinary, Pt II, sec 3(i), 22 November 2024), r 3; *Anuradha Bhasin* (n 3) [70]-[76], [96]-[101].

leaves constitutional justification partly dependent upon subsequent judicial scrutiny.

4.2 FROM STATUTORY AUTHORITY TO CONSTITUTIONAL JUSTIFICATION

The central difficulty under the present framework is no longer the absence of statutory authority. The more demanding question is whether an individual shutdown order can demonstrate a constitutionally sufficient relationship between the particular threat identified and the breath of the restriction imposed. This distinction follows directly from proportionality. *Modern Dental College* requires a rational connection between the measure and its legitimate objective, while *Anuradha Bhasin* applies proportionality to restrictions upon internet-based freedoms.⁶³ Accordingly, invocation of national security or public order cannot itself establish that suspension of telecommunications is constitutionally justified. The State must demonstrate why the particular communications service contribute sufficiently to the identified danger to warrant its restrictions. This requirement is especially important because shutdowns operate infrastructurally. Evidence that a particular individual has used telecommunications to facilitate disorder does not automatically justify disabling the same infrastructure for a substantially larger population engaged in lawful activity.

The constitutional inquiry must therefore examine the fit between risk and response. A geographically concentrated threat ordinarily demands justification for any broader territorial restrictions. Similarly, a threat associated with one communications function cannot automatically justify suspension of additional services. The 2024 Rules facilitate this inquiry by requiring an order to identify the geographical area and telecommunication service affected.⁶⁴ Yet specificity is only a procedural starting point. Naming a district does not explain why the whole district must lose connectivity. A distinction level constitutional analysis must therefore separate formal specificity from substantive tailoring. The former identifies what is restricted and the latter explains why that precise restriction is necessary. This is where prohibition of arbitrariness of Article 14 complements proportionality in Article 19. An order based upon unsupported generalizations about anticipated disorder may raise concerns about the quality of executive reasoning even before the severity of the rights restriction is balanced.⁶⁵

⁶³ *Modern Dental College and Research Centre v State of Madhya Pradesh* (2016) 7 SCC 353 [63]-[65]; *Anuradha Bhasin* (n 3) [50]-[71].

⁶⁴ Telecommunications (Temporary Suspension of Services) Rules 2024, GSR 724(E), *Gazette of India* (Extraordinary, Pt II, sec 3(i), 22 November 2024), r 3(2).

⁶⁵ Constitution of India 1950, art 14; *EP Royappa v State of Tamil Nadu* (1974) 4 SCC 3 [85]; *Maneka Gandhi* (n 44) 283-84.

The constitutional demand is consequently one of structured justification, the executive should be able to connect evidence of the threat to the territorial, functional and temporal dimension of the measure selected.

4.3 NECESSITY AND MEANINGFUL CONSIDERATION OF ALTERNATIVES

The strongest constitutional development in the 2024 Rules is Rule 3(4), which prevents a suspension order from being made unless the competent authority has considered whether the statutory objective could be achieved through ‘other reasonable means’.⁶⁶ This substantially responds to the least restrictive means reasoning developed in *Anuradha Bhasin*. Necessity requires more, however than the abstract acknowledgment that alternatives have been considered. The relevant question is whether an alternative capable of achieving the legitimate objective with comparable effectiveness would impose materially less interference with constitutional freedoms.⁶⁷ Depending upon the factual circumstances, alternatives might include a smaller geographical restriction, suspension of fewer services, targeted blocking under Section 69A of the Information Technology Act 2000, or ordinary law enforcement measures.⁶⁸ None is constitutionally preferable regardless of context. Targeted blocking, for example, may be ineffective where the danger concerns coordinated violence rather than identifiable online content.

The constitutional weakness therefore lies not in Rule 3(4)’s existence but in the depth of justification it expressly demands. The Rules do not clearly require published reasons explaining which realistic alternatives were evaluated and why they were inadequate. A statement that ‘other reasonable means were considered’ could therefore satisfy the language formally while revealing little about whether necessity was genuinely examined. This distinction matters because *Anuradha Bhasin* treated less restrictive alternatives as part of substantive proportionality rather than an administrative checklist.⁶⁹ Rule 3(4) should accordingly be interpreted as requiring a genuine comparative inquiry between feasible measures. Such necessity is reviewable rather than being merely asserted.

⁶⁶ Telecommunications (Temporary Suspension of Services) Rules 2024, GSR 724(E), *Gazette of India* (Extraordinary, Pt II, sec 3(i), 22 November 2024), r 3(4).

⁶⁷ Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (CUP 2012) 317-40; *Modern Dental College and Research Centre v State of Madhya Pradesh* (2016) 7 SCC 353 [63]-[65].

⁶⁸ Information Technology Act 2000, s 69A; *Shreya Singhal v Union of India* (2015) 5 SCC 1 [109]-[114].

⁶⁹ *Anuradha Bhasin* (n 3) [70]-[76].

4.4 THE MISSING STAGE: PROPORTIONALITY STRICTO SENSU

The principal substantive limitation of the present framework emerges after necessity. Proportionality does not ask only whether a less restrictive but equally effective alternative exists. Its final stage proportionality stricto sensu asks whether the benefit obtained from the measure justifies the harm imposed upon protected rights. Barak distinguishes this balancing stage from necessity precisely because a measure can be the least restrictive effective option and nevertheless impose an excessive constitutional cost.⁷⁰ Alexy's account similarly requires the competing constitutional principles to be weighed according to the intensity of their interference and importance in the circumstances.⁷¹ The Supreme Court incorporated comparable reasoning in *Modern Dental College*, requiring an appropriate relationship between the importance of achieving the governmental objective and the social importance of preventing the limitation upon the constitutional rights.⁷²

Rule 3(4) does not expressly require this final assessment. This creates a significant analytical gap. Consider a situation in which a complete mobile data suspension would reduce a genuine but relatively limited risk more effectively than any narrower measure. Necessity might be established. Yet if the restrictions affect millions of lawful users, disrupt commercial activity and substantially suppress expression for an extended period, the marginal security benefit may still be insufficient to justify the cumulative constitutional harm. Duration and geography must therefore form part of balancing rather than operate merely as procedural specifications. The fifteen day maximum under Rule 3 is an outer statutory limit, not a constitutional presumptive period.⁷³ If the danger justifies restriction for forty-eight hours, continuing it beyond that period requires renewed substantive justification. Likewise, identifying a geographical boundary does not prove that the entire area remains proportionately subject to suspension. This reveals the most important distinction between the statutory incorporated necessity, but they have not expressly institutionalized balancing. The remaining constitutional inquiry therefore continues to depend heavily upon *Anuradha Bhasin*, *Modern Dental College* and judicial review.

⁷⁰ Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (CUP 2012) 340-70.

⁷¹ Robert Alexy, *A Theory of Constitutional Rights* (Julian Rivers tr, OUP 2002) 394-425.

⁷² *Modern Dental College and Research Centre v State of Madhya Pradesh* (2016) 7 SCC 353 [63]-[65].

⁷³ Telecommunications (Temporary Suspension of Services) Rules 2024, GSR 724(E), *Gazette of India* (Extraordinary, Pt II, sec 3(i), 22 November 2024), r 3(2); *Anuradha Bhasin* (n 3) [99]-[101], [152(f)]-[152(g)].

4.5 REASONS, TRANSPARENCY AND EFFECTIVE REVIEW

Proportionality cannot operate effectively unless executive justification is visible and reviewable. *Anuradha Bhasin* required publication of shutdown orders because individuals cannot meaningfully challenge restrictions without access to the decision affecting their rights.⁷⁴ The 2024 Rules now incorporate publication and reason giving requirements into positive law.⁷⁵ This is an important example of constitutional doctrine migrating into administrative procedure. The quality of reasons nevertheless matters more than their formal existence. A constitutionally useful order should, in so far as legitimate security and confidentiality permits, explain the nature of the threat, its relationship to the service and territory restricted, and why realistic alternatives are inadequate. Such reasoning enables affected persons, Review Committees and courts to distinguish evidence-based necessity from administrative assertion.

The institutional structure of review presents a more difficult problem. Mandatory review under the 2024 Rules remains undertaken by committees composed of senior executive officials.⁷⁶ Internal review is not inherently ineffective as officials may possess relevant expertise and can reconsider restrictions more rapidly than ordinary litigation. The constitutional concern is instead structural. The branch responsible for imposing the restriction remains responsible for its principal mandatory review. *Foundation for Media Professionals v Union Territory of Jammu and Kashmir* illustrates the limits of this arrangement. Faced with continuing 2G restrictions during the COVID-19 pandemic, the Supreme Court acknowledged the need to reconcile national security with fundamental rights but referred reconsideration to a Special Committee composed of executive officials.⁷⁷ The decision demonstrates a broader remedial problem where communication restrictions operate immediately, delayed judicial scrutiny may occur only after time sensitive losses to expression, business or access to information have materialized. Independent oversight would therefore strengthen rather than necessarily replace executive review. A model permitting immediate action during genuine emergencies but requiring prompt scrutiny by an institution independent of the originating authority could

⁷⁴ *Anuradha Bhasin* (n 3) [96]-[98], [152(d)].

⁷⁵ Telecommunications (Temporary Suspension of Services) Rules 2024, GSR 724(E), *Gazette of India* (Extraordinary, Pt II, sec 3(i), 22 November 2024), r 3(2).

⁷⁶ *ibid* rr 2(d), 5.

⁷⁷ *Foundation for Media Professionals v Union Territory of Jammu and Kashmir* (2020) 5 SCC 746 [12], [22]-[23].

preserve operational capacity while reducing the danger of executive self-confirmation.

4.6 OVERALL CONSTITUTIONAL ASSESSMENT

The present framework should neither be dismissed as a continuation of the Telegraph Act regime nor treated as having fully implemented the Supreme Court's proportionality jurisprudence. The more accurate conclusion is partial constitutionalisation. The 2024 Rules have made genuine advances. Specificity reduces the risk of indiscriminate restrictions, temporal limits constrain indefinite suspension, publication facilitates challenge, and Rule 3(4) embeds consideration of reasonable alternatives into the original decision-making process. These reforms demonstrate movement from purely reactive judicial protection towards preventive administrative safeguards. Three deficiencies nevertheless remain. First, formal specification of territory and service does not guarantee substantive tailoring between the identified threat and the restrictions. Secondly, Rule 3(4) addresses necessity without expressly requiring proportionality *stricto sensu*. Thirdly, mandatory review remains institutionally executive. Accordingly, telecommunication shutdowns authorized under the current regime can constitute proportionate and legally justified limitations upon fundamental rights, but their validity cannot be inferred from the limitations on the fundamental rights, or from the compliance of Section 20 and the Rules. Constitutional justification requires evidence connecting the threat to the precise restriction, genuine evaluation of less intrusive alternatives, continuing justification throughout its duration and a balance between the security benefit obtained and the cumulative burden upon protected freedoms.

4.7 CONCLUSION

The principal constitutional weakness of India's shutdown regime is therefore no longer simply that executive power is broadly authorized. The more precise concern is that the statutory framework does not fully structure how that power must be justified. Rule 3(4) represents meaningful progress by incorporating alternative analysis, but the final balancing stage of proportionality and genuinely independent oversight remain underdeveloped. This finding refines the article's distinction between administrative and constitutional modernization. The 2023-24 reforms have constitutionalized important aspects of shutdown decision making, but not the complete proportionality inquiry. Chapter Five consequently examines international and comparative practice not to search for a foreign model to transplant, but to identify institutional safeguards capable of completing that transition.

5. INTERNATIONAL AND COMPARATIVE STANDARDS FOR TELECOMMUNICATION SHUTDOWNS

5.1 INTRODUCTION

Chapter Four concluded that India's current shutdown regime represents partial constitutionalisation, the 2024 Rules incorporate specificity, publication, temporal limits and consideration of reasonable alternatives, but do not expressly require proportionality *stricto sensu* or independent review. Comparative analysis is useful not because foreign legal regimes can be transplanted into Indian law, but because they provide alternative institutional responses to similar problems of governmental interference with communications.⁷⁸ This chapter therefore adopts a functional comparison. International human rights law provides a normative benchmark for restrictions on digital communications, while European jurisprudence illustrates the constitutional significance of collateral interference with lawful users.⁷⁹ The United Kingdom provides a more limited institutional comparison concerning independent scrutiny of intrusive communications and emergency powers. The central argument is that these materials largely reinforce principles already recognized in Indian constitutional law but reveals a gap between recognizing proportionality doctrinally and institutionalizing it effectively.

5.2 INTERNATIONAL HUMAN RIGHTS STANDARDS

India acceded to the International Covenant on Civil and Political Rights (ICCPR) in 1979.⁸⁰ Article 19 protects the freedom to seek, receive and impart information and ideas through any media, while Article 19(3) permits restrictions only where provided by law and necessary for specified purposes, including national security and public order.⁸¹ The Covenant therefore accommodates legitimate security restrictions but subjects them to legal justification. The UN Human Rights Committee's General Comment No 34 develops this requirement further. Restrictions must pursue a permissible purpose, be appropriate to their protective function and constitute the least intrusive means among those capable of achieving the relevant objectives.⁸²

⁷⁸ Vicki C Jackson, *Constitutional Engagement in a Transnational Era* (OUP 2010) 71-102; Sujit Choudhry, 'Globalization in Search of Justification: Toward a Theory of Comparative Constitutional Interpretation' (1999) 74 *Indiana Law Journal* 819, 825-838.

⁷⁹ Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (CUP 2012) 340-70.

⁸⁰ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 ('ICCPR'); India acceded on 10 April 1979.

⁸¹ ICCPR, art 19 (2)-(3).

⁸² UN Human Rights Committee, 'General Comment No 34: Article 19: Freedoms of Opinion and Expression' (12 September 2011) UN Doc CCPR/C/GC/34, paras [21]-[22], [33]-[35].

Significantly, proportionality must govern not only the legislation authorizing interference but also its administrative application.⁸³ This distinction maps directly onto the problem identified in Chapter Four. Section 20 may provide lawful authority, but the constitutional legitimacy of an individual shutdown depends upon whether its territorial scope, duration and affected services are justified by the circumstances confronting the executive.

International standards have become more explicit concerning internet disruptions. In Resolution 32/13, the UN Human Rights Council condemned measures that intentionally prevent or disrupt access to or dissemination of information online contrary to international human rights law.⁸⁴ Resolution 47/16 subsequently reaffirmed the protection of human rights online and addressed internet shutdowns, India voted in favor of the resolution.⁸⁵ These resolutions are not treaty obligations and should not be presented as independently determining the constitutionality of Indian legislation.⁸⁶ Their significance is normative; they demonstrate increasing international rejection of indiscriminate disruption of digital communications. The international framework consequently supports a qualified rather than absolute conclusion. It does not establish that telecommunications may never be suspended. Instead, it places the burden upon the State to demonstrate why disruption is necessary and proportionate to a specific legitimate objective. This substantially converges with *Anuradha Bhasin*, making international law complementary to, rather than a substitute for, Indian constitutional doctrine.⁸⁷

5.3 EUROPEAN HUMAN RIGHTS JURISPRUDENCE: COLLATERAL INTERFERENCE

Article 10 of the European Convention on Human Rights (ECHR) protects freedom of expression while permitting restrictions prescribed by law and necessary in a democratic society for recognized legitimate aims.⁸⁸ European jurisprudence is particularly useful in

⁸³ *ibid* [34].

⁸⁴ UN Human Rights Council Res 32/13, 'The Promotion, Protection and Enjoyment of Human Rights on the Internet' (18 July 2016) UN Doc A/HRC/RES/32/13, para 10.

⁸⁵ UN Human Rights Council Res 47/16, 'The Promotion, Protection and Enjoyment of Human Rights on the Internet' (26 July 2021) UN Doc A/HRC/RES/47/16. The resolution was adopted by 43 votes to none, with four abstentions; India voted in favor.

⁸⁶ Vicki C Jackson, *Constitutional Engagement in a Transnational Era* (OUP 2010) 71-102.

⁸⁷ *Anuradha Bhasin* (n 3) [50]-[76], [152]; Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (CUP 2012) 340-70.

⁸⁸ Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) art 10.

demonstrating that the constitutional impact upon lawful users form part of proportionality analysis. In *Ahmet Yildirim v Turkey*, an order directed at an allegedly unlawful website resulted in blocking access to Google Sites generally, thereby making the applicant's unrelated website inaccessible.⁸⁹ The European Court of Human Rights found a violation of Article 10, emphasizing deficiencies in the legal safeguards and the collateral consequences of a restriction extending substantially beyond the targeted content.⁹⁰

Similarly, in *Cengiz and Others v Turkey*, the Court examined the wholesale blocking of YouTube and recognized that users whose own material was not unlawful could nevertheless suffer an interference with their freedom to receive and impart information.⁹¹ These cases concern website blocking rather than complete network shutdowns and should therefore not be treated as direct factual precedents for India. Their comparative value lies in the principle that the rights of unaffected lawful users cannot be excluded from the proportionality assessment. That principle is especially relevant to telecommunication shutdowns because their collateral impact is potentially greater than platform blocking. Where the security concerns relate to particular individuals, content or locations, the State must justify why significantly wider lawful communications should also be disabled. The cases therefore reinforce Chapter Four's distinction between formal specificity and substantive tailoring, identifying the area or service restricted is insufficient unless the breadth of that restriction corresponds to the danger addressed.

5.4 UNITED KINGDOM: THE INSTITUTIONAL VALUE OF INDEPENDENT SCRUTINY

The United Kingdom does not provide a direct analogue to India's statutory shutdown regime. Its value as a comparator lies instead in demonstrating that intrusive communications and emergency powers can coexist with scrutiny outside the originating executive authority. Under the Investigatory Powers Act 2016, certain interception warrants authorized by the Secretary of State require approval by a Judicial Commissioner.⁹² The Judicial Commissioner reviews conclusions concerning necessity and proportionality, producing the institutional arrangement

⁸⁹ *Ahmet Yildirim v Turkey* App no 3111/10 (ECtHR, 18 December 2012) [8]-[17].

⁹⁰ *ibid* [64]-[68]; Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (CUP 2012) 340-70.

⁹¹ *Cengiz and Others v Turkey* App no's 48226/10 and 14027/11 (ECtHR, 1 December 2015) [49]-[65].

⁹² Investigatory Powers Act 2016, ss 19, 23.

commonly described as the ‘double lock’.⁹³ Interception and telecommunication shutdowns involve materially different interferences, so this mechanism cannot simply be imported into Section 20. Nevertheless, it establishes an important institutional proposition that national security expertise does not inherently require exclusively executive supervision.

The Civil Contingencies Act 2004 offers a related principle concerning emergency powers. Emergency regulations are subject to parliamentary scrutiny and ordinarily lapse after thirty days, while regulations laid before Parliament generally lapse after seven days unless approved by both Houses.⁹⁴ The comparison is again functional rather than direct. Its relevance lies in treating exceptional authority as temporally limited and institutionally accountable. India’s 2024 Rules already embody part of this philosophy through their fifteen-day maximum and mandatory Review Committee process.⁹⁵ The principal difference concerns institutional independence. Indian Review Committees remain composed of senior executive officials. Internal review can be rapid and informed by security expertise, but it also places primary reconsideration within the same branch responsible for imposing the restrictions. The comparative lesson is therefore not that judicial approval must precede every Indian shutdown. Genuine emergencies may require immediate action. A more adaptable safeguard would permit immediate executive suspension while requiring prompt independent scrutiny where a shutdown extends beyond a short initial period or affects a particularly extensive population or territory.

5.5 COMPARATIVE EVALUATION AND IMPLICATIONS FOR INDIA

Three conclusions emerge from the comparative analysis.⁹⁶ First, collateral interference matters constitutionally.⁹⁷ The European cases demonstrate that lawful users affected by measures directed at unlawful activity cannot simply disappear from proportionality analysis. Applied to India, greater the number of affected users and constitutionally protected activities disrupted, stronger the justification required. Second, proportionality must operate at the level of the individual administrative decision, not merely the enabling legislation.⁹⁸ General

⁹³ *ibid* s 23; Investigatory Powers Act 2016, Explanatory Notes, paras 82-84.

⁹⁴ Civil Contingencies Act 2016, ss 19, 23.

⁹⁵ Telecommunications (Temporary Suspension of Services) Rules 2024, GSR 724(E), *Gazette of India* (Extraordinary, Pt II, sec 3(i), 22 November 2024), rr 3(2), 5.

⁹⁶ Vicki C Jackson, *Constitutional Engagement in a Transnational Era* (OUP 2010) 71-102; Sujit Choudhry, ‘Globalization in Search of Justification: Toward a Theory of Comparative Constitutional Interpretation’ (1999) 74 *Indiana Law Journal* 819, 825-838.

⁹⁷ Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (CUP 2012) 340-70.

⁹⁸ Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (CUP 2012) 340-70.

Comment No 34 reinforces what Indian constitutional jurisprudence already suggests that lawful statutory objectives cannot rescue an unnecessarily broad application of otherwise valid powers. Third, independent oversight is compatible with effective security governance.⁹⁹ The UK comparison demonstrates that executive expertise and independent scrutiny need not be mutually exclusive. India's existing Review Committee mechanism could therefore be strengthened without preventing rapid responses to genuine emergencies.

These conclusions reveal convergence rather than contradiction between Indian and comparative standards. *Anuradha Bhasin* already recognizes proportionality, publication and consideration of less restrictive measures. The 2024 Rules subsequently incorporated several of these safeguards. The principal weakness is therefore not absence of constitutional principle but incomplete institutional implementation. Reform should accordingly build upon rather than replace the existing framework. Three changes are particularly justified: suspension orders should expressly demonstrate the relationship between the identified threat and the territory and services restricted, the Rules should require a recorded balancing assessment addressing the expected public benefit against the cumulative burden upon fundamental rights, and extended or particularly extensive shutdowns should receive prompt scrutiny independent of the originating authority. Such reforms would convert proportionality from predominantly judicial standards applied after interference into a more effective discipline upon executive decision making itself.¹⁰⁰

5.6 LEGISLATIVE REFORM: COMPLETING THE CONSTITUTIONALISATION OF SHUTDOWN POWERS

The comparative analysis demonstrate that the principal weakness of India's current framework is no longer the absence of statutory safeguards. The Telecommunication (Temporary Suspension of Services) Rules 2024 already require publication, recorded reasons, territorial and service specificity, a maximum duration of fifteen days and consideration of whether the statutory objective can be achieved by other reasonable means.¹⁰¹ The more important question is whether those safeguards are sufficiently demanding to ensure that shutdown powers are exercised as exceptional constitutional measures rather than as administratively convenient

⁹⁹ Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (CUP 2012) 340-70.

¹⁰⁰ Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (CUP 2012) 340-70.

¹⁰¹ Telecommunications (Temporary Suspension of Services) Rules 2024, GSR 724(E), *Gazette of India* (Extraordinary, Pt II, sec 3(i), 22 November 2024), rr 3, 5.

responses to security concerns. The reforms proposed below therefore build upon the existing framework rather than replacing it.

5.6.1 EXPRESS STATUTORY BALANCING

The first reform should be the express incorporation of proportionality *stricto sensu* into the decision-making process. Rule 3(4) presently requires consideration of “other reasonable means”, thereby addressing an important aspect of necessity.¹⁰² What it does not expressly require is a separate determination that the anticipated public benefit of the shutdown justifies the cumulative interference with fundamental rights. The distinction matters. As Chapter Four demonstrated, a measure may be the least restrictive effective option and nevertheless impose an excessive burden relative to the benefit secured. *Modern Dental College* treats proportionality as including an appropriate balance between the importance of the governmental objective and the restriction imposed upon rights.¹⁰³ *Anuradha Bhasin* subsequently applied structured proportionality to internet restrictions.¹⁰⁴ Rule 3 should therefore require the competent authority to record why the expected security or public order benefit of the proposed shutdown outweighs its foreseeable impact upon protected expression, trade and other constitutionally relevant interests. This would not require elaborate judicial reasoning from executive officials. A concise statutory balancing requirement would nevertheless ensure that decision makers address the constitutional cost of the measure rather than treating necessity as the end of the inquiry.¹⁰⁵

5.6.2 STRONGER REASON GIVING AND ALTERNATIVES ANALYSIS

The second reform concerns the quality of reasons. The current Rules require every suspension order to be published and to clearly state its reasons.¹⁰⁶ They also require consideration of alternative reasonable means. The official text further requires identification of the specific geographical area and telecommunication services affected.¹⁰⁷ These safeguards are significant, but they could be strengthened by requiring the published order to identify, at least in general terms, the categories of alternatives considered and the reasons they were inadequate.

¹⁰² *ibid* r 3(4).

¹⁰³ *Modern Dental College and Research Centre v State of Madhya Pradesh* (2016) 7 SCC 353 [63]-[65].

¹⁰⁴ *Anuradha Bhasin* (n 3) [50]-[76].

¹⁰⁵ Robert Alexy, *A Theory of Constitutional Rights* (Julian Rivers tr, OUP 2002) 47-48, 66-69, 394-425.

¹⁰⁶ Telecommunications (Temporary Suspension of Services) Rules 2024, GSR 724(E), *Gazette of India* (Extraordinary, Pt II, sec 3(i), 22 November 2024), r 3(2).

¹⁰⁷ *ibid* rr 3(2), 3(4).

A bare statement that other reasonable means were considered provides little basis for testing whether the necessity inquiry was genuine.¹⁰⁸ The requirement should be calibrated to legitimate security concerns. Authorities need not disclose operational intelligence whose publication would prejudice national security or public safety. However, confidentiality should justify redaction of sensitive material rather than complete absence of constitutional reasoning. The published portion of an order should ordinarily explain the nature of the threat, why the specified service and territory are implicated and why a materially narrower response would be insufficient. Such a reform would make the existing Rule 3(4) requirements judicially and administratively reviewable rather than merely declaratory.¹⁰⁹

5.6.3 GRADUATED TEMPORAL REVIEW

The fifteen-day statutory maximum should also be supplemented by graduated review. A maximum duration protects against indefinite suspension, but it does not establish that every order approaching fifteen-days is constitutionally justified. The official 2024 Rules impose the fifteen-day ceiling, while *Anuradha Bhasin* separately held that indefinite suspension is impermissible and emphasized the need for periodic review.¹¹⁰ A more constitutional responsive system would distinguish between initial emergency authorization and prolonged restriction. For example, immediate executive action could remain available where urgency genuinely requires it, but continuation beyond a short initial period should require fresh reasons demonstrating that the original factual basis remains valid and that narrower alternatives remain inadequate. This would reflect an important feature of proportionality, justification is dynamic. A restriction that was proportionate when violence first erupted may cease to be proportionate once circumstances stabilize. Constitutional review should therefore assess continuing necessity rather than merely the legality of the original decision.¹¹¹

5.6.4 INDEPENDENT REVIEW OF SERIOUS OR EXTENDED SHUTDOWNS

The most significant institutional reform concerns oversight. The 2024 Rules continue to rely upon Review Committees constituted under Rule 5, and those mechanisms remain executive

¹⁰⁸ *Anuradha Bhasin* (n 3) [72]-[76].

¹⁰⁹ UN Human Rights Committee, *General Comment No 34: Article 19: Freedom of Opinion and Expression* UN Doc CCPR/C/GC/34 (12 September 2011) [34]-[35].

¹¹⁰ Telecommunications (Temporary Suspension of Services) Rules 2024, GSR 724(E), *Gazette of India* (Extraordinary, Pt II, sec 3(i), 22 November 2024), r 3(2); *Anuradha Bhasin* (n 3) [99]-[101], [152(f)]-[152(g)].

¹¹¹ Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (CUP 2012) 340-70.

in character.¹¹² The present model has advantages like executive officials can respond quickly and possess access to sensitive information. The difficulty is that the same branch responsible for imposing the restriction remain responsible for its principal mandatory review. The answer need not be prior judicial approval for every order. Such a requirement could impede genuinely urgent responses and may not account adequately for India's federal and administrative structure. A more proportionate institutional reform would introduce independent review for especially serious restrictions. Independent scrutiny could be triggered where a shutdown exceeds a specified short period, covers a substantial territorial area or affects multiple telecommunication services. The reviewing body might include a serving or retired judicial member together with administrative and technical expertise. Its role would be to examine legality, necessity, proportionality and continuing justification rather than to substitute its operational preferences for those of the executive.¹¹³ The principle is supported by comparative practice. The United Kingdom's communication surveillance regime demonstrates that intrusive national security powers can operate alongside independent scrutiny, although the institutional model itself is not directly transferable to shutdowns.¹¹⁴ The point is narrower, executive expertise and independent constitutional accountability are compatible.¹¹⁵

5.6.5 TRANSPARENCY AND PARLIAMENTARY ACCOUNTABILITY

Finally, aggregate reporting should accompany individual publication. The Government should periodically disclose the number, geographical distribution and duration of shutdown orders, the statutory grounds invoked and the outcomes of Review Committee proceedings, subject to legitimate security redactions. This would perform a different function from publishing individual orders. Aggregate reporting would enable Parliament, courts and civil society to determine whether an exceptional statutory power is becoming normalized in particular regions or circumstances. Transparency at this level is particularly important because proportionality concerns patterns as well as isolated decisions.¹¹⁶ Parliamentary reporting would also restore a measure of democratic supervision with powers delegated extensively to the executive. The objective would not be parliamentary authorization of operational decision, but legislative

¹¹² Telecommunications (Temporary Suspension of Services) Rules 2024, GSR 724(E), *Gazette of India* (Extraordinary, Pt II, sec 3(i), 22 November 2024), rr 2(d), 5.

¹¹³ Vicki C Jackson, *Constitutional Engagement in a Transnational Era* (OUP 2010) 71-102.

¹¹⁴ Investigatory Powers Act 2016, ss 19, 23.

¹¹⁵ Sujit Choudhry, 'Globalization in Search of Justification: Toward a Theory of Comparative Constitutional Interpretation' (1999) 74 *Indiana Law Journal* 819, 825-838.

¹¹⁶ OECD, *OECD Regulatory Policy Outlook 2021* (OECD Publishing 2021) ch2.

scrutiny of how the statutory framework functions in practice.¹¹⁷

5.6.6 REFORM AS CONSTITUTIONAL CONSOLIDATION

These reforms would not transform the Telecommunications Act 2023 into an entirely different regulatory system. Nor would they eliminate the State's capacity to impose shutdowns where serious threats genuinely make them necessary. Their purpose is narrower to ensure that the constitutional principles already recognized by the Supreme Court are embedded more completely in the legislation governing the original executive decision. The 2024 Rules have already begun this process. They demonstrate that principles previously developed judicially like publication, temporariness, specificity and alternative analysis, can be converted into statutory safeguards.¹¹⁸ The logical next step is to extend the same process to balancing, enhanced reason giving, continuing justification and independent review. The resulting framework would preserve executive flexibility while reducing dependence upon retrospective litigation. That would represent the final transition identified throughout this article from telecommunications law that merely authorizes governmental power to a statutory regime that systematically requires that power to be constitutionally justified.

5.7 CONCLUSION

The comparative analysis confirms that India's principal challenge is not the absence of constitutional safeguards, but their incomplete institutionalization. International standards and comparative jurisprudence reinforce the requirements of necessity, proportionality and accountability already recognized in *Anuradha Bhasin*. The 2024 Rules represent meaningful progress through requirements concerning specificity, publication, duration and alternative reasonable means. However, they do not expressly require proportionality *stricto sensu*, while mandatory review remains predominantly executive. Reform should therefore strengthen reason giving, balancing and independent oversight, ensuring that shutdown powers remain available for genuine emergencies but are exercised only where continuously necessary, proportionate and constitutionally justified.¹¹⁹

¹¹⁷ World Bank, *World Development Report 2017: Governance and the Law* (World Bank 2017) 3-18.

¹¹⁸ Telecommunications (Temporary Suspension of Services) Rules 2024, GSR 724(E), *Gazette of India* (Extraordinary, Pt II, sec 3(i), 22 November 2024), rr 3-5; *Anuradha Bhasin* (n 3) [96]-[101].

¹¹⁹ Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (CUP 2012) 461-92.

6. CONCLUSION

6.1 ANSWERING THE RESEARCH QUESTION

This article asked: to what extent do telecommunication shutdowns in India, as authorized under Indian law, constitute a proportionate and legally justified limitation on fundamental rights?

The analysis demonstrate that telecommunication shutdowns are not inherently unconstitutional, but neither does statutory authorization make them constitutionally justified. Their legality depends upon distinctions that have emerged throughout this article such as the existence of governmental power and the constitutional justifications for its exercise are separate inquiries. Section 20 of the Telecommunication Act 2023 provides contemporary statutory authority for temporary suspension, but each exercise of that authority remains constrained by Articles 14, 19 and 21 of the Constitution and, principally by proportionality.¹²⁰ The constitutional position established in *Anuradha Bhasin v Union of India* is therefore fundamental. The Supreme Court did not recognize an autonomous fundamental right to internet access, rather it confirmed that freedom of speech and expression and freedom to conduct trade or profession through the internet receive protection under Article 19(1)(a) and 19(1)(g).¹²¹ Consequently, governmental restrictions upon telecommunication must satisfy the constitutionally permitted grounds for limitation and the requirements of proportionality.

6.2 PRINCIPAL FINDING

The article has demonstrated a significant evolution in India's legal framework. The historical regime concentrated substantial communication powers within the executive, while constitutional safeguards developed progressively through judicial intervention. *PUCL, Shreya Singhal, Puttaswamy* and, most importantly *Anuradha Bhasin* progressively strengthened requirements concerning legality, procedural fairness, reasoned restrictions and proportionality.¹²² The Telecommunication Act 2023 and the Telecommunication (Temporary Suspension of Services) Rules 2024 represent an important further stage in that development.

¹²⁰ Telecommunication Act 2023, s 20; Constitution of India 1950, art 14, 19 and 21; *Modern Dental College and Research Centre v State of Madhya Pradesh* (2016) 7 SCC 353 [63]-[65].

¹²¹ *Anuradha Bhasin* (n 3) [27]-[28], [152(a)]-[152(b)].

¹²² *People's Union for Civil Liberties v Union of India* (1997) 1 SCC 301; *Shreya Singhal v Union of India* (2015) 5 SCC 1; *Modern Dental College and Research Centre v State of Madhya Pradesh* (2016) 7 SCC 353; *Justice KS Puttaswamy (Retd) v Union of India* (2017) 10 SCC 1; *Anuradha Bhasin* (n 3).

The Rules require specificity concerning the affected service and geographical area, publication and reasons, impose temporal limit and require consideration of whether the statutory objective can be achieved through other reasonable means.¹²³ The current framework should therefore not be characterized simply as a continuation of the colonial Telegraph Act regime.

Nevertheless, this article has identified the present framework as one of partial constitutionalisation. Its central deficiency is no longer the complete absence of safeguards, but the incomplete translation of constitutional proportionality into executive decision-making. Rule 3(4)'s alternatives requirement substantially reflects necessity, but does not expressly require proportionality *stricto sensu*, whether the security benefit obtained actually justifies the cumulative constitutional harm imposed. Mandatory review also remains predominantly executive, creating a structural limitation where the same branch imposing a shutdown supplies its principal compulsory scrutiny. The comparative analysis reinforces this conclusion without suggesting that foreign institutions should simply be transplanted into India. International human rights standards emphasize necessity and proportionality in the application of communication restrictions, European jurisprudence demonstrates the constitutional importance of collateral interference with lawful users, and UK practice illustrate that independent scrutiny can coexist with intrusive security powers. These materials expose an institutional rather than conceptual gap in Indian law.

6.3 CONTRIBUTION AND REFORM

The principal contribution of this article is therefore to distinguish between statutory modernization and complete constitutionalisation. Much of the earlier debate surrounding Indian shutdowns developed under the Telegraph Act 1885 and 2017 Rules. The 2023 Act and 2024 Rules alter that analysis. Earlier objections cannot simply be repeated where the new framework now expressly incorporates safeguards such as publication, specificity, temporal limitation and alternatives analysis. The more precise contemporary criticism is that constitutionalisation remains unfinished. Reform should consequently build upon the 2024 framework by requiring stronger reasons demonstrating substantive tailoring, express balancing of security benefits against rights burdens, continuing justifications for prolonged

¹²³ Telecommunications (Temporary Suspension of Services) Rules 2024, GSR 724(E), *Gazette of India* (Extraordinary, Pt II, sec 3(i), 22 November 2024), rr 3, 5.

restrictions, and independent scrutiny of particularly extensive or extended shutdowns. These safeguards would preserve the State's capacity to respond rapidly to genuine emergencies while reducing dependence upon retrospective judicial intervention.

6.4 FINAL CONCLUSION

The answer to the research question is therefore necessarily qualified. Telecommunication shutdowns in India can constitute proportionate and legally justified limitations upon fundamental rights, but only exceptionally and where the State can demonstrate that the particular restriction not merely aims to achieve its objective but is constitutionally justified as well. A legitimate concern for national security or public order begins rather than concludes that inquiry. The constitutional legitimacy of a shutdown ultimately depends upon its relationship to the actual threat, whether it is rationally connected to that threat, whether materially less restrictive alternative is inadequate, whether its territorial and temporal scope is no broader than necessary, and whether its security benefit justifies the cumulative interference with fundamental rights. India's 2023-24 reforms represent meaningful progress towards this standard. They do not, however, complete it. The future legitimacy of telecommunication shutdowns should therefore depend not upon expanding or eliminating governmental power in absolute terms, but upon ensuring that exceptional power remains evidence based, temporary, reviewable and continuously proportionate. In a constitutional democracy increasingly dependent upon digital infrastructure, that discipline is essential to reconciling legitimate security requirements with the practical enjoyment of fundamental rights.

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