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PROPORTIONALITY IN INDIAN CONSTITUTIONAL ADJUDICATION AFTER PUTTASWAMY: FROM JUDICIAL DEFERENCE TO STRUCTURED RIGHTS REVIEW

AUTHORED BY – SIMRAN

Abstract

The doctrine of proportionality has emerged as the central standard for constitutional rights adjudication in India after the Supreme Court's landmark decision in Justice K.S. Puttaswamy v. Union of India (2017). Replacing the earlier "reasonable restrictions" and largely deferential approach under Article 19(2)–(6), proportionality introduces a structured four-step test that requires the State to justify rights-infringing measures in terms of legality, legitimate aim, necessity (least restrictive means), and strict balancing. This marks a decisive move toward rights-maximisation and judicial accountability.

This paper traces the transition of Indian constitutional jurisprudence from post-Emergency restraint to active rights-based scrutiny, analysing proportionality through key cases such as Puttaswamy (Privacy), Anuradha Bhasin (Internet Shutdown), and Kaushal Kishor (Hate Speech). It briefly compares proportionality's roots in German, Canadian, and European human rights law, showing how Indian courts have adapted it to the Indian context. The paper argues that proportionality, if consistently applied, has the potential to transform constitutional review from abstract reasonableness to rigorous structured justification, strengthening the fundamental rights architecture of India.

Keywords

Proportionality, Fundamental Rights, Article 21, Article 19, Judicial Review, Constitutional Morality, Germany, Supreme Court Interpretation

Literature Review

Academic discourse on proportionality traces its intellectual origins to German administrative law and its refinement through the European Court of Human Rights and Canadian Charter jurisprudence, particularly the Oakes Test. In India, early legal commentators like H.M. Seervai and P.P. Craig noted the judiciary's preference for the vague "reasonableness" standard rather

than structured review. Scholarly analysis evolved rapidly after T.M.A. Pai and Modern Dental College, which began referencing proportionality explicitly.

Post-Puttaswamy, scholars such as Gautam Bhatia, Madhav Khosla, and Anup Surendranath have argued that proportionality represents a constitutional watershed, enabling courts to evaluate State necessity, not just State intention. Law Commission and comparative constitutional analysts have called proportionality “the global standard of rights adjudication.” Yet, critiques caution against judicial overreach, or courts assuming the role of policy-makers. This paper engages with this scholarship and contextualises the Indian adoption of proportionality within its historical constitutional evolution, especially from deferential judicial review (1950–1978) to rights-expansive post-Maneka era (1978 onwards).

Research Methodology

This study is doctrinal, comparative, and analytical. It examines major Supreme Court judgments primarily Puttaswamy (2017), Modern Dental College (2016)¹, Anuradha Bhasin (2020)², and Kaushal Kishor (2023)³ to evaluate how proportionality is applied in practice. Comparative references to German, Canadian, and EU proportionality models are selectively used to understand theoretical foundations and global relevance. The focus is constitutional adjudication, not policy.

The method is purely qualitative, aimed at assessing judicial reasoning evolution, not empirical outcomes. It is normative, proposing consistent adoption and refinement of proportionality as the standard of constitutional review.

Introduction

The Indian Constitution guarantees a wide range of fundamental rights, but it also authorises reasonable restrictions in the interests of national security, public order, morality, and other grounds. For decades, the Supreme Court evaluated such limitations using a “reasonableness” test a largely deferential and abstract standard, allowing the State broad discretion. This was particularly visible in the post-Emergency era, when judicial restraint was seen as a safeguard

¹ *Modern Dental College and Research Centre v. State of Madhya Pradesh*, (2016) 7 SCC 353. *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

² *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637.

³ *Kaushal Kishor v. Union of India*, (2023) 2 SCC 1.

against accusations of “judicial overreach”.

However, the constitutional landscape fundamentally transformed after *Maneka Gandhi v. Union of India* (1978)⁴, which introduced substantive due process and made Article 21 interlock with Articles 14 and 19. This laid the foundation for more structured rights protection, though the Court did not yet formalise proportionality as a doctrinal test.

It was not until *Modern Dental College v. State of Madhya Pradesh* (2016) that the Supreme Court expressly adopted proportionality, and **Justice K.S. Puttaswamy* (2017) elevated it to a constitutional standard, holding that any restriction on fundamental rights especially privacy must satisfy a four-pronged proportionality test.

Today, proportionality has become the default test in cases involving privacy, free speech, internet shutdowns, censorship, data surveillance, and even criminal procedure marking a decisive move from state-centric justification to rights-centric scrutiny.

The Indian Constitution, through Part III, enshrines a comprehensive catalogue of fundamental rights that form the normative core of India’s constitutional democracy. Yet, these rights are not absolute: Articles 19(2)–(6), 25, and 33 permit restrictions in the interests of security, public order, morality, or other legitimate aims. The critical constitutional question has always been how far the State may go in limiting rights, and by what standard courts should evaluate such limitations.

For much of the Republic’s early history, the Supreme Court adopted a deferential “reasonableness” approach, testing restrictions on a broad scale of governmental discretion rather than through structured justification. The standard, applied under Article 19, was rooted in administrative rationality rather than constitutional rigor. In cases such as *A.K. Gopalan v. State of Madras* (1950) and *State of Madras v. V.G. Row* (1952), the Court conceived liberty and restrictions as separate domains, deferring to legislative wisdom on matters of necessity and scope. This reflected a postcolonial anxiety to preserve institutional balance and avoid confrontation with the political branches—a tendency reinforced during and after the Emergency era.

⁴ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

The jurisprudential landscape began to transform with *Maneka Gandhi v. Union of India* (1978), where the Court dismantled the compartmentalised reading of Articles 14, 19, and 21, holding that any “procedure established by law” must be “just, fair, and reasonable.” This substantive due process turn signaled the beginning of a more rights-protective judicial philosophy, embedding fairness and non-arbitrariness within constitutional adjudication. Still, the Court lacked a coherent analytical tool to calibrate the relationship between individual rights and collective interests.

That tool emerged decades later in *Modern Dental College v. State of Madhya Pradesh* (2016), where the Court, drawing from German and Canadian jurisprudence, expressly adopted the doctrine of proportionality. It articulated a four-pronged test—legality, legitimate aim, necessity (least restrictive means), and balancing (proportionality in the strict sense)—for evaluating rights limitations. This marked the first explicit recognition that constitutional review must be structured and evidence-based, not left to intuitive judicial impression.

The transformative moment arrived with *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017), where a nine-judge bench unanimously affirmed privacy as a fundamental right intrinsic to liberty and dignity. *Puttaswamy* constitutionalised proportionality, making it the decisive framework for assessing all fundamental rights restrictions. The Court’s reasoning moved decisively from judicial deference to structured justification, requiring the State to demonstrate both necessity and minimal impairment in every rights-infringing measure.

In the years following *Puttaswamy*, proportionality has migrated across domains—governing cases of internet shutdowns (*Anuradha Bhasin v. Union of India*, 2020), hate speech and dignity (*Kaushal Kishor v. Union of India*, 2023), and data protection, surveillance, and free speech controversies. Indian constitutional adjudication now mirrors the global constitutional trend toward structured rights review, pioneered in Germany, refined in Canada through the *Oakes* test, and entrenched by the European Court of Human Rights under Articles 8 and 10 of the ECHR.

This paper situates the rise of proportionality within the broader trajectory of Indian constitutional evolution—from the formalism of *Gopalan* to the substantive justice of *Maneka Gandhi* and the analytical rigor of *Puttaswamy*. It argues that proportionality represents more than a doctrinal import; it is a constitutional method—a shift from assessing whether the State

acted reasonably to whether it acted justifiably under the Constitution. The paper further examines how proportionality, if applied consistently and without selective deference, can transform judicial review into a transparent, evidence-based mechanism that holds the State to its constitutional burden of proof.

Evolution Of Standards Of Constitutional Review In India

A. The Early Era: ‘Reasonable Restrictions’ and Judicial Deference

In the formative years of the Republic, the Supreme Court’s approach to constitutional rights adjudication was marked by formalism and restraint. In *A.K. Gopalan v. State of Madras* (1950), the Court read each fundamental right in isolation, holding that Article 21’s guarantee of “procedure established by law” referred merely to the existence of a valid law, not its fairness or justice. Judicial review under Article 19 focused on whether restrictions were “reasonable,” a standard that remained abstract and deferential to legislative judgment.

The ‘reasonableness’ test, as formulated in *State of Madras v. V.G. Row* (1952), required courts to consider the nature of the right, the purpose of the restriction, and its proportional relation to the object sought. Yet, this test was more rhetorical than analytical: it rarely demanded empirical justification or evidence of necessity from the State. The result was a legislature-centric conception of review that equated reasonableness with good faith rather than substantive justification.

This deferential stance reflected the postcolonial judiciary’s institutional caution. The Court, wary of appearing anti-democratic or activist, saw itself as guardian of constitutional balance rather than the arbiter of policy. The Emergency period (1975–77) entrenched this deferential culture; cases such as *ADM Jabalpur v. Shivkant Shukla* (1976) epitomized judicial abdication in the face of executive excess, reducing Article 21 to a hollow promise. The constitutional aftermath of the Emergency, however, catalysed a dramatic recalibration of judicial philosophy.

B. The Maneka Gandhi Revolution: Substantive Due Process and Integrated Rights

The decision in *Maneka Gandhi v. Union of India* (1978) fundamentally altered the structure of constitutional review. The Court held that any law restricting personal liberty must not only conform to Article 21 but also satisfy the tests of equality under Article 14 and reasonableness under Article 19. This “trinity” interpretation integrated procedural fairness, substantive

justice, and equality into a unified rights framework.

While *Maneka Gandhi* did not expressly invoke “proportionality,” its emphasis on fairness, non-arbitrariness, and minimal impairment introduced the conceptual seeds of the doctrine. The Court shifted from examining whether the State acted within its powers to whether it acted justly and fairly, importing an element of substantive due process into Indian constitutionalism. Subsequent cases such as *R.D. Shetty v. International Airport Authority* (1979) and *E.P. Royappa v. State of Tamil Nadu* (1974) deepened this jurisprudence, holding that arbitrariness is antithetical to equality. Judicial review thus evolved from a deferential “reasonableness” inquiry to a rights-oriented fairness review, though still lacking a structured analytical framework.

C. Modern Dental College: The First Explicit Adoption of Proportionality

A decisive doctrinal shift occurred in *Modern Dental College & Research Centre v. State of Madhya Pradesh* (2016). Confronted with the constitutionality of state regulation of private professional colleges, the Court, for the first time, expressly adopted the four-part proportionality test, drawing upon German and Canadian jurisprudence.

The Court held that the validity of a restriction on a fundamental right must satisfy the following conditions:

1. **Legality:** The restriction must have a valid statutory basis.
2. **Legitimate Aim:** The law must pursue a constitutionally permissible objective.
3. **Necessity (Least Restrictive Means):** Among alternative measures, the one least restrictive of the right must be chosen.
4. **Balancing (Proportionality in the Strict Sense):** The benefits to the public interest must outweigh the harm to the right.

This judgment was significant not merely for its citation of comparative law but for introducing structured justification into Indian constitutional review. The Court recognised that mere rational connection or reasonableness was insufficient; the State must demonstrate necessity and balance through evidence and reasoning.

By embedding this four-step framework, *Modern Dental College* laid the doctrinal foundation for the constitutionalisation of proportionality in *Puttaswamy* the following year.

D. From Reasonableness to Structured Rights Review: Doctrinal Trajectory

The transformation from “reasonableness” to “proportionality” represents a shift from abstract evaluation to structured analysis. Earlier courts assessed whether a restriction appeared reasonable in the eyes of a hypothetical legislator; post-*Puttaswamy*, the judiciary must demand demonstrable justification from the State.

Phase	Standard of Review	Key Features	Representative Cases
1950–1977	Reasonableness	/ Focus on legislative intent and good faith; minimal scrutiny	<i>A.K. Gopalan</i> (1950), <i>V.G. Row</i> (1952)
1978–2015	Substantive Process / Fairness	Due Integration of Articles 14, 19, 21; focus on non-arbitrariness	<i>Maneka Gandhi</i> (1978), <i>E.P. Royappa</i> (1974)
2016–Present	Proportionality	Structured four-limb test; burden on State; rights-maximising approach	<i>Modern Dental College</i> (2016), <i>Puttaswamy</i> (2017), <i>Anuradha Bhasin</i> (2020)

This doctrinal evolution parallels the global movement toward proportionality as the universal metric of constitutional rights review—a development seen in the German Federal Constitutional Court, the Canadian Supreme Court (*R. v. Oakes*, 1986), and the European Court of Human Rights under Articles 8 and 10 of the ECHR.

E. The Constitutional Turn: Puttaswamy as the Culmination

Justice K.S. Puttaswamy (Retd.) v. Union of India (2017) constitutionalised proportionality as the central doctrine of Indian rights adjudication. The nine-judge bench unanimously affirmed that any limitation on the right to privacy—or indeed any fundamental right—must satisfy the four-step proportionality test.

Puttaswamy thus completed India’s doctrinal journey from judicial deference to structured justification. It transformed constitutional adjudication from intuitive balancing to evidence-based reasoning, placing the burden of proof squarely on the State. The Court also made proportionality the bridge between individual autonomy and legitimate state interests, thereby aligning India with contemporary comparative constitutional practice.

F. Synthesis

The evolution of constitutional review in India illustrates a continuous tension between judicial restraint and rights protection. Each doctrinal milestone—*Gopalan*, *Maneka Gandhi*, *Modern*

Dental College, Puttaswamy—reflects a recalibration of that balance. The trajectory reveals a progressive deepening of scrutiny, culminating in proportionality as the constitutional grammar of rights limitation.

Proportionality thus represents not merely a doctrinal refinement but a philosophical reorientation: from viewing rights as negotiable boundaries of State power to treating them as the normative starting point of constitutional governance.

Proportionality Constitutionalised: Puttaswamy And Beyond

The judgment in *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017) stands as a constitutional watershed in Indian rights jurisprudence. A nine-judge bench of the Supreme Court unanimously affirmed that the right to privacy is intrinsic to life and liberty under Article 21 and interlinked with the freedoms guaranteed under Articles 14 and 19. Yet the true doctrinal significance of *Puttaswamy* lies not merely in its recognition of privacy, but in its adoption of proportionality as the central standard of constitutional review for all rights-infringing State action.

A. The Four-Limb Proportionality Test in *Puttaswamy*

Drawing on comparative constitutional jurisprudence—from the German *Bundesverfassungsgericht*, the Canadian *Oakes* test, and the European Court of Human Rights—the Court articulated a four-step proportionality framework, establishing a structured inquiry that the State must satisfy whenever fundamental rights are limited:

1. Legality:

There must be a valid law authorising the restriction. Executive orders or administrative discretion alone cannot curtail fundamental rights. This requirement ensures democratic legitimacy and guards against arbitrary State action.

2. Legitimate Aim:

The State must demonstrate that the restriction pursues a constitutionally permissible purpose, such as national security, public order, or protection of others' rights. Vague or indeterminate goals such as “social harmony” or “public interest” fail this test.

3. Necessity / Least Restrictive Means:

The State must prove that the measure is necessary and proportionate to achieve the aim, and that no less-intrusive alternative could achieve the same purpose. This inquiry injects evidence-based scrutiny into constitutional adjudication, compelling the State to

justify not only the purpose but the choice of means.

4. Balancing / Proportionality in the Strict Sense:

The benefits to the public interest must outweigh the harm to individual rights. This final step requires a normative evaluation of whether the rights infringement is excessive relative to the legitimate aim pursued.

This fourfold structure—legality, legitimacy, necessity, and balance—transforms proportionality from a vague principle of fairness into a structured rights-review methodology. It shifts the constitutional burden from the citizen (to show unreasonableness) to the State (to show justification), aligning Indian constitutional review with global standards of rights protection.

B. The Constitutional Impact of *Puttaswamy*

Puttaswamy did more than constitutionalise privacy; it restructured the very grammar of judicial review. The judgment introduced a culture of justification, a term borrowed from South African constitutionalism, where every exercise of public power must be rationally and proportionally justified in terms of the Constitution.

The Court rejected earlier “reasonableness” formulations as insufficiently precise and emphasised that proportionality provides a transparent and testable framework. Justice Chandrachud’s plurality opinion clarified that privacy is not a privilege but a condition of liberty itself—hence any State intrusion must satisfy strict proportionality. The Court explicitly recognised that administrative convenience, efficiency, or political expediency cannot justify fundamental rights infringements.

In doing so, *Puttaswamy* redefined the architecture of constitutional limitations: from abstract moral balancing to structured judicial reasoning grounded in legality, evidence, and necessity. It effectively constitutionalised proportionality as the default standard for all future rights adjudication in India.

C. Proportionality in Application: Key Post-*Puttaswamy* Judgments

The influence of *Puttaswamy* has since extended across diverse constitutional domains, reshaping how courts assess both legislative and executive restrictions on rights.

1. Internet Shutdowns — *Anuradha Bhasin v. Union of India* (2020)

In this landmark case, the Court applied proportionality to assess the legality of internet

shutdowns in Jammu & Kashmir. It held that restrictions on internet access—an essential enabler of free speech and livelihood—must be:

- Temporary, not indefinite, and subject to periodic review;
- Published and reasoned, ensuring procedural transparency; and
- Proportionate, meaning the restriction must be narrowly tailored to the exigency.

Although the Court stopped short of quashing the shutdown orders, it imposed a constitutional discipline of justification on executive discretion. For the first time, proportionality operated as a real-time constraint on administrative power, requiring State authorities to demonstrate necessity and proportionality before curtailing digital rights.

2. Hate Speech and Horizontal Rights — *Kaushal Kishor v. Union of India* (2023)

Kaushal Kishor extended proportionality into the domain of positive obligations and horizontal application. The Court observed that the State's failure to prevent hate speech or protect individual dignity may violate Articles 14 and 21. It held that constitutional duties entail proportionate balancing between liberty and dignity, even when the violation arises from private actors.

This marks an important jurisprudential evolution: proportionality no longer governs only the *limitation* of rights but also the State's duty to safeguard rights from private infringement—a move towards a more expansive and integrated constitutionalism.

3. Data Protection, Surveillance, and Technological Governance

Post-*Puttaswamy* litigation around Aadhaar, facial recognition, and digital surveillance has invoked proportionality as a benchmark for assessing legality and necessity. While the Aadhaar judgment (2018) applied proportionality inconsistently—upholding welfare linkage but striking down private use—it reaffirmed the requirement of purpose limitation and data minimisation, both proportionality principles in substance.

Emerging cases on facial-recognition systems and Pegasus spyware investigations have continued to cite *Puttaswamy*'s framework, demonstrating that proportionality has become the constitutional lingua franca for digital rights adjudication in India.

D. Comparative Influence and Convergence

By constitutionalising proportionality, *Puttaswamy* placed India firmly within a transnational judicial dialogue on rights limitation. Its reasoning closely parallels the German Federal Constitutional Court's three-tier test (suitability, necessity, proportionality *stricto sensu*) and

the Canadian Supreme Court's *Oakes* test under the Charter of Rights and Freedoms. Similarly, the European Court of Human Rights employs proportionality under Articles 8 and 10 to evaluate privacy and expression restrictions.

Unlike these jurisdictions, however, *Puttaswamy* situated proportionality within a broader constitutional morality framework, recognising that liberty, dignity, and equality form an indivisible triad. This indigenised adaptation distinguishes India's proportionality jurisprudence as both comparative and contextual, grounded in the Constitution's transformative ethos.

E. Significance and Continuing Challenges

Puttaswamy represents the culmination of India's long journey from judicial deference to rights-based scrutiny, but its legacy depends on consistent judicial application. While subsequent cases such as *Anuradha Bhasin* have operationalised proportionality, others—particularly in national security, preventive detention, and religious freedom contexts—continue to exhibit selective deference.

The challenge now is not conceptual recognition but institutional consistency: ensuring that proportionality is not invoked symbolically but applied substantively, with genuine evidentiary assessment and strict burden of proof on the State. If internalised across all branches of government, proportionality could transform Indian constitutionalism from a system of abstract reasonableness into one of structured justification and constitutional accountability.

The landmark judgment in *Justice K.S. Puttaswamy v. Union of India* (2017) where a nine-judge bench unanimously declared privacy a fundamental right firmly established proportionality as the constitutional test for any restriction on fundamental rights.

The Court held that every infringement of privacy must satisfy a four-step test:

1. **Legality:** There must be a valid law (executive orders alone are insufficient).
2. **Legitimate Aim:** The goal must be constitutional and necessary (e.g., national security, not vague social control).
3. **Necessity / Least Restrictive Measure:** The State must prove no less-intrusive alternative is available.
4. **Balancing / Proportionality:** Strict Sense The harm to rights must not exceed the benefits to the public interest.

This test shifted the burden to the State for the first time to justify its action with constitutional precision.

A. Internet Shutdowns Anuradha Bhasin v. Union of India (2020)

The Court held that internet restrictions must be:

- Temporary and reviewable
- Published and reasoned (no secret shutdown orders)
- Proportionate not excessive or indefinite

For the first time, proportionality controlled executive discretion in real-time governance — especially during conflict or unrest.

B. Hate Speech and Duties of State — Kaushal Kishor v. Union of India (2023)

Here, the Court held that State inaction in preventing hate speech may violate Articles 14 & 21, and that constitutional duties require proportionate balancing of liberty and dignity even when the violator is a private actor.

This extended proportionality beyond State action, introducing the idea of “horizontal rights constraints.”

Comparative Roots: Germany, Canada & European Human Rights Law

To better understand India’s proportionality shift, one must trace its origins globally:

Jurisdiction	Court/Test	Core Principle
Germany	Federal Constitutional Court	Necessity + strict balancing since 1950s
Canada	Oakes Test under Charter	Pressing objective + minimal impairment
European Court of Human Rights	Article 8 (Privacy) & Article 10 (Expression)	No arbitrary or excessive restriction

India has directly drawn from this tradition, especially from German and Canadian proportionality frameworks, to transform its rights adjudication from subjective deference to structured justification.

Critique: Challenges And Inconsistency In Application

Despite proportionality being constitutionalised post-Puttaswamy, its consistent application in Indian courts remains uneven. Several serious challenges persist:

1. Judicial Inconsistency & Selective Invocation

Proportionality is extensively applied in privacy and internet shutdown cases but ignored or diluted in matters involving:

- National security (UAPA, AFSPA cases)
- Religious freedom & morality (Sabarimala, Hijab)
- Economic regulations (tax, licensing, crypto bans)

The absence of a uniform judicial discipline risks turning proportionality into a rhetorical tool, not an enforceable standard.

2. Burden of Proof Still Ambiguous

While Puttaswamy placed the burden squarely on the State, many High Courts still expect citizens to prove unconstitutionality, instead of compelling the State to demonstrate necessity a fundamental reversal of the proportionality logic.

3. Lack of Institutional Support

Unlike Germany or Canada, India lacks:

- rights impact assessments before laws are passed
- expert evidence requirements during judicial review
- independent constitutional watchdog institutions

This causes courts to rely on assumptions, rather than data-based necessity analysis, weakening proportionality's rigour.

4. Executive Deference in “Security” Cases

In cases involving anti-terror laws, surveillance powers, or preventive detention, courts often avoid deep proportionality review, reverting to older “national security doctrine”—a historically deferential approach. This undermines doctrinal consistency and creates rights-vulnerable grey zones.

The Future Of Proportionality In India: Toward Structured Rights Adjudication

If consistently embraced, proportionality can revolutionise Indian fundamental rights protection by:

- Forcing evidence-based justification from the State
- Promoting minimal impairment over maximal control
- Making fundamental rights the default not the exception
- Creating transparency and measured accountability in State decision-making

There is also growing momentum towards institutionalising proportionality through:

- Judicial training & practice directives
- Mandatory proportionality review in High Courts
- Law Commission recommendations for proportionality-based scrutiny in data laws, emergency powers, and surveillance regulations

Conclusion

Proportionality marks the most significant upgrade in India's constitutional rights adjudication since Maneka Gandhi. It shifts judicial review from vague reasonableness to structured, analytical, and rights-first standards. However, unless applied uniformly including in national security and free speech cases proportionality risks becoming a symbolic doctrine rather than a constitutional guardrail.

The way forward lies in:

- Codifying proportionality standards across all fundamental rights cases
- Institutionalising independent evidence-based review
- Ensuring strict, non-negotiable burden of proof on the State

India is at a jurisprudential crossroads. It can either fully embrace proportionality as the spine of constitutional governance, or allow fragmented inconsistency to undermine constitutional supremacy.