

THE CRUCIAL ROLE OF DISSENT IN SUSTAINING DEMOCRACY

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Abstract :

In democratic societies, dissent is not merely a tolerated anomaly but a vital component that sustains the very essence of democracy. This article explores the multifaceted role of dissent in reinforcing democratic principles. By protecting individual rights and freedoms, dissent ensures that diverse voices are heard and considered in policy-making. It fosters open dialogue and debate, which are essential for refining laws and preventing the stagnation of ideas. Additionally, dissent acts as a critical check on governmental power, preventing corruption and abuse. Through historical and contemporary examples, the article illustrates how dissent has driven significant social and political changes, promoting justice and equality. Furthermore, it highlights how dissent encourages civic engagement, thereby strengthening the democratic process. Ultimately, this research underscores that dissent is indispensable for the adaptability, resilience, and inclusiveness of democracies, making it a cornerstone of democratic health and longevity.

Keywords – Dissent, Democracy, Rights, Freedom, Abuse of power.

Abraham Lincoln has defined democracy as, “Government of the people, by the people and for the people.”¹ This definition sums up the essence of democracy wherein it is recognised as a form of government which is composed of the people, where the people elect their representatives directly or indirectly and whose essential function is to work for the welfare of the people. The term Democracy has its origin from two Greek terms, ‘Demos’ and ‘Kratia’, which mean ‘the people’ and ‘authority or power’ respectively, which means the government in which power is given to the people.²

Though there are various examples wherein democracy was practised in other parts of the world but its systematic existence can be traced to Ancient Greece in 5th Century B.C. But the democracy that was practised in Greece at that point of time differed from the concept of democracy which we understand today.

Democracy as we see today has refined itself to suit the existing social scenarios existing in different countries. In specific reference to India, democracy has played a very crucial role due to the past colonial experience. When we gained independence from the oppressive British rule, India wanted to have such a form of government where the needs of the people would be looked after. The forefathers of our nation were sure that a government

¹ Richard Nsiah, *Democracy for Ghana*, SSRN (Sep 2, 2014) <https://ssrn.com/abstract=2489947>html.

² American Government, <https://www.ushistory.org/gov/1c.asp> (last visited on 18-06-2024)



which would comprise of the people would suffice the needs in a better way. Thus, we gave the right to our people to take active participation in the governance of the country by electing representatives who would govern the country so that the needs and demands of the people would be communicated to the leaders. In a democratic form of Government, a Government comes into power through the choice of the people and is thus accountable to the citizens. The basic function of the government is to work for the welfare of the public and for the benefit of the society. And thus, the public should have the right and the opportunity to voice their opinions, whether they are in favour or against the Government. Because it is only through the communication between the citizens and the Government that the Government can understand the expectations of the public from the government and reflect on its actions. And a democracy can function effectively only when it accepts criticism and difference of opinion.

A society remains free only when it protects and values the right to dissent. But this right has to be balanced with the rights of other individuals, making sure that it does not impair the rights of others.³

Out of the various aspects of the democratic form of government, the key area for discussion here is the acceptance of difference of views and opinions. Because when we talk about a pluralistic society like India, wherein we have people from different religious, cultural, educational backgrounds, differences in the views and opinions of the people is bound to exist. Thus, the true measure of the success of democracy in a pluralistic country like India, can be measured in terms of acceptance of these different ideas and opinions. As there will be people having different opinions, there are bound to be some people whose opinions and beliefs would be different from the majority. When a person disagrees with the opinions of others, he has the right to dissent.

Dissent has always been an essential aspect of a democracy. A country cannot develop unless it accepts new ideas and bring in necessary changes.⁴ And to evolve as a society it is important that we accept dissent, encourage deliberations and discussions so that our state or society changes as per the changing times. The right to dissent is an integral aspect of freedom of expression as it is the fulcrum of progress.⁵ Dissent refers to difference of opinion, and this difference of opinion exist generally from the majority. Thus, the right to dissent is based on the belief that truth will prevail if allowed a free, but orderly market-place for the exchange of ideas.⁶

India has seen the existence of dissent since the time it was a British colony. Non-cooperation movement, swadeshi movement and many more are nothing but dissenting views against the then Government. Our independence movement as well is a result of efforts that started with dissenting against the British Rule. Therefore, when the constitution makers framed the Constitution, they thought it necessary to incorporate the right to dissent in the part of Fundamental Rights itself. Art.19 protects this right in sub-clauses (a), (b) to all citizens.

³ Hon.Raymond Wise, *The Right to Dissent: A Judicial Commentary*, 4 Suffolk U.L.REV. 70,70-90 (1969).

⁴ Kaveti Vinisha and Anisha Ainala, *Dissent and Democracy: The Inextricable Link*, 1 CALR|JAL&J, 21,24(2021), <https://calr.in/wp-content/uploads/2021/08/Dissent-and-Democracy-the-inextricable-link.pdf>.

⁵ WISE, *supra* note 3, at 73.

⁶ *Id* at 73.



Art 19 (a) gives the right to Freedom of Speech and Expression – The scope of this right includes within its ambit to voice dissenting opinions as well.

But this right is subject to reasonable restrictions, i.e. every citizen can exercise his freedom of speech and expression but the state can put limitations on the same on the grounds mentioned in Clause (2). The grounds on which reasonable restrictions can be imposed are:

- i) Sovereignty and Integrity of India
- ii) Security of the State
- iii) Friendly relations with foreign states
- iv) Public order
- v) Decency or morality
- vi) Contempt of Court
- vii) Defamation
- viii) Incitement to an offence

Similarly, sub-clause (b) of Article 19 provides the right to Assemble peaceably without arms – which gives citizens the right to assemble together to voice their opinions or dissent against the Government but without arms. This right is also subject to reasonable restrictions that are provided in clause (3) of Article 19. The grounds on which reasonable restrictions can be imposed are:

- i) Sovereignty and integrity of India
- ii) Public order

By understanding these provisions and the democratic nature of our country, it can be understood that our forefathers were very clear to incorporate transparency and communication between the Government and the citizens as well as gave the right to the citizens to voice their opinions and views.

John Stuart Mill and John Locke, classical liberal theorists, viewed dissent as an essential element for a society to function effectively. Mill clearly highlighted the dangers of ‘tyranny of the majority’ by stating that free expression of opinion and freedom of opinion are necessary for the wellbeing of mankind. He believed that to prevent expression of dissent was to assume the existence of infallibility that could lead to ‘men of one generation to commit those dreadful mistakes which excite the astonishment and horror of posterity’.⁷ On the similar lines, John Locke also believed that dissent was opposed simply because of its perception as outside or against the majoritarian view.⁸

In our democratic system, the judiciary, which is the third organ of the Government, also plays a very important role in the democratic nature of our country. The judiciary which is the independent organ of the government is bestowed with the task of keeping the government in check so that it carries out its function effectively. Thus, the judiciary carries out the important function of protecting the democratic fabric of the country by making sure that the government is functioning within its limit and as well the rights of the citizens are protected. While doing so, the judges who house the courts play a crucial role as it through

⁷ Nora Ni Loinsigh, *Judicial Dissent in Ireland: Theory, Practise and the Constraints of the Single Opinion Rule*, 51 IR. JUR. 124, 123 -148 (2014).

⁸ *Id.* at 124.

them that the courts dispense justice. While deciding issues before them the judges apply the laws to the factual circumstances of the case and dispense justice. The judges give judgement according to their interpretation of law and therefore there can be difference of opinion among them, as it is rightly said that the will to dissent is an effective safeguard against judicial lethargy.⁹

The judiciary which protects the democratic fabric of our country is further made independent by incorporating such provisions which gives independence to the judges to voice and publish their opinions even if against the majority opinion. The judiciary is made independent not only from the other two organs of the government but also from the fellow judges which further protects their independence. The constitution therefore protects the external aspect of independence wherein it protects the judiciary from other two organs of the Government by providing for security of tenure, primacy in appointment etc. and as well it protects the internal aspect of independence wherein it provides independence to the judges from fellow judges by giving them the right to voice their opinions even if they are in minority.

Dissent plays a crucial role in democracy for several key reasons:

1. It protects individual rights and freedoms :

Dissent safeguards individual rights by ensuring that the government does not become tyrannical. It provides a platform for minority opinions to be voiced, which is essential in a system where the majority typically holds power. By allowing dissent, democracies affirm the right to freedom of speech, thought, and expression.

2. It encourages open dialogue and debate :

A healthy democracy sustains on open dialogue and debate. Dissent fosters a culture where ideas can be freely exchanged, challenged, and improved upon. This process helps in refining policies and laws, ensuring they are more just, equitable, and effective. Constructive criticism and alternative viewpoints prevent stagnation and encourage continuous progress and innovation.

3. Dissent preventing abuse of power :

Dissent acts as a check on governmental power. When citizens and institutions can freely criticize the government, it discourages corruption, abuse of power, and the erosion of democratic norms. Whistleblowers, activists, journalists, and opposition parties play a vital role in holding authorities accountable, exposing misconduct, and advocating for transparency.

4. Dissent reflects diverse perspectives :

Democracies are inherently diverse, with citizens holding a wide range of beliefs and interests. Dissent ensures that this diversity is represented in the political discourse. It highlights the needs and concerns of different segments of society, ensuring that policy-making is inclusive and considers various perspectives. This diversity strengthens the social fabric and promotes social cohesion by acknowledging and addressing different viewpoints.

⁹ Justice Jesse Carter, Dissenting Opinions, 4 Hastings L.J. 118 (1953).

5. Dissent drives social and political change :

Many significant social and political changes have been driven by dissent. Civil rights movements, suffrage movements, environmental activism, and other forms of protest have historically played pivotal roles in advancing justice and equality. By challenging the status quo, dissenters bring attention to societal issues and mobilize public opinion and action, leading to meaningful reforms.

6. Dissent encourages civic engagement :

When people believe that their voice can make a difference, they are more likely to participate in the democratic process. Dissent empowers citizens to engage with political issues, attend protests, vote, and take part in civic activities. This engagement is fundamental to the health and vitality of a democracy, ensuring it remains responsive to the needs and desires of its populace.

7. Dissent promotes resilience and adaptability :

Democracies that allow dissent are better equipped to handle crises and adapt to change. By welcoming criticism and alternative solutions, these systems can identify and rectify flaws more efficiently. This adaptability makes democracies more resilient in the face of challenges, whether they are economic, social, or political.

Lawful dissent irrespective of it being unpopular or distasteful shall be encouraged. It is the duty of every individual in upholding another person's right to express his views and opinions even if he disagrees with them. All authorities, whether state or non-state, shall open every possible channel to dissent which is rational and is expressed in a legal manner. Thus, Dissent should be encouraged wherever possible because a democracy will sustain and grow only when the minority opinions are expressed without fear and due credit is given to them, as it is the essence of a participative democracy.