(JOINT JURIST)

e-ISSN -3139-6186

[NATIONAL-LEVEL | PEER-REVIEWED | OPEN-ACCESS LEGAL JOURNAL]

/ VOLUME 1 / ISSUE 3 / (AUGUST - SEPTEMBER 2026)

ABOUT THE JOURNAL

"Joint Jurist" is an online legal platform and a national publication which is aimed at spreading online legal education, bridging the gap between academic research and litigation expertise among the legal audience. It was introduced in early 2026. It is an independent project, started by its founder and does not receive any funding from any person or organisation or body or government as the case maybe.

It is a ***'Dream Project'*** of ***Mr. Suraj Shandil*** *(Advocate) (Founder-CEO-Editor-in-Chief & Owner)*. We operate on a Double-Blind Peer-Review model, ensuring that every published work meets the highest standards of original scholarship, zero plagiarism, and academic integrity. Our platform is dedicated to providing an open-access environment for legal professionals, scholars, and students to contribute to the evolving legal discourse.

EDITORIAL & ADVISORY BOARD

The Joint Jurist Journal is guided by a distinguished panel of legal luminaries and academicians committed to fostering excellence in legal scholarship.

- **Advocate Suraj Shandil**
- **(Dr.) Seema Gupta**
- **(Dr.) Mohd Rafiq**
- **(Dr.) Harshita Thalwal**
- **Ms. Sabrina Bath**
- **Ms. Soumya Sharma**
- **Mrs. Shivani Kumari**
- **(Dr.) Vanita Sharma**

© 2026 Joint Jurist (All Rights Reserved) e-ISSN -3139-6186

No part of this publication may be reproduced without prior written permission, except for educational purposes.

- **Mr. Vineet Kumar**
- **Ms. Sunayana**

NAME	DESIGNATION	INSTITUTION/AFFILIATION
Advocate Suraj Shandil	Founder, CEO & Editor-in-Chief	**High Court of Himachal Pradesh**
Prof. (Dr.) Seema Gupta	Editorial Board Member	**Associate Professor / Chandigarh University (CU)**
Prof. (Dr.) Mohd. Rafiq Dar	Editorial Board Member	**Associate Professor/Lovely Professional University (LPU)**
(Dr.) Harshita Thalwal	Editorial Board Member	**Associate Professor & HOD, Chandigarh University(CU)**
Asst. Prof. Ms. Somya Sharma	Editorial Board Member	**Professor of law & Ph.D. Scholar/ Shoolini University**
Asst. Prof. Ms. Sabrina Bath	Editorial Board Member	**Assistant Professor & Ph.D. Scholar/Chandigarh University (CU)**
Asst. Prof. Mrs. Shivani Kumari	Editorial Board Member	**Assistant Professor & Ph.D. Scholar/ DDM Sai Law College Himachal Pradesh**
Prof. (Dr.) Vanita Sharma	Editorial Board Member	**Associate Professor / Chandigarh University (CU)**

© 2026 Joint Jurist (All Rights Reserved) e-ISSN -3139-6186

No part of this publication may be reproduced without prior written permission, except for educational purposes.

Asst. Prof. Mr. Vineet Kumar	Editorial Board Member	**Professor of law / Shoolini University**
Asst. Prof. Ms. Sunayana	Editorial Board Member	**Assistant Professor & Ph.D. Scholar/ Himachal Pradesh National Law University Shimla**

© 2026 Joint Jurist (All Rights Reserved) e-ISSN -3139-6186

No part of this publication may be reproduced without prior written permission, except for educational purposes.

e-ISSN -3139-6186

"Freedom of Speech in the Digital Era: Navigating Censorship, Hate Speech, and Online Regulations"

(RESEARCH PAPER)

AUTHOR:

TEJAS KARN (Student)

CO-AUTHOR: PAYAL PRIYA (Student)

CHRIST ACADEMY INSTITUTE OF LAW, BENGALURU

ABSTRACT

One of the most important parts of democracy is freedom of speech and expression. **Article 19(1)(a)** of the Indian Constitution protects this right. But in this digital age, this freedom faces new problems because technology changes how people talk to each other, share their thoughts, and get information. The internet and social media have made it easier and faster for people to express themselves, but they have also made problems like hate speech, spreading false information, trolling, and online banning more complicated.

The purpose of this paper is to look at how India's freedom of speech is changing in the digital age, when everyone can both make and read content. Through laws like the **Information Technology Act, 2000** and rules like the **IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021**, this article looks at how governments and tech companies control online content. It also looks at the balance between free speech and responsible speech.

Some important court decisions that will be talked about in the study are [1]*Shreya Singhal v. Union of*

India (2015), which threw out **Section 66A of the IT Act**, and *Bhalai Sangathan v. Union of India* (2014), which dealt with hate speech online. The paper uses these cases to talk about Pravasi the thin line between necessary regulation and shutting down dissent.

This paper ends by saying that the right to free speech is an important democratic value that needs to be protected. However, regulation should focus on responsibility, openness, and education instead of censorship. In the end, it says that for a digital democracy to work well, people must use technology in a balanced way, and their rights must be protected.

Keywords: Freedom of Speech, Digital Era, Censorship, Hate Speech, and Online Regulation.

1. INTRODUCTION

© 2026 Joint Jurist (All Rights Reserved) e-ISSN -3139-6186

No part of this publication may be reproduced without prior written permission, except for educational purposes.

The Indian Constitution, enacted on November 26, 1949, and implemented on January 26, 1950, represents a significant accomplishment and a resilient framework that has directed India's evolution as a sovereign democratic republic for more than seventy five years. Celebrating its 75th anniversary in 2024, this milestone presents an excellent opportunity to reflect on the enduring principles of the Constitution—justice, liberty, equality, and fraternity—and how these foundational values continue to influence the nation's social, political, and legal frameworks. The Constitution was crafted with the aim of establishing democratic governance, safeguarding fundamental rights, and promoting social justice, while simultaneously addressing India's extensive diversity and intricate historical backgrounds. It is acknowledged as a dynamic document that accommodates change while maintaining fundamental principles vital to India's unity and democratic values. Among the essential rights protected by the Constitution, the right to freedom of speech and expression under Article 19(1)(a) continues to serve as a fundamental pillar of democratic engagement and dissent. It enables citizens to express their opinions, participate in public discourse, and hold authorities accountable, reflecting the principles of democracy. However, as India advances through the digital era, this fundamental privilege faces unprecedented challenges and transformations. The emergence of the internet, social media platforms, and digital communication has transformed the ways in which individuals articulate their ideas, distribute information, and organize communities. While the digital realm broadens opportunities for free expression, it concurrently introduces intricate challenges including the proliferation of hate speech, misinformation, online harassment, and issues related to content regulation. The government's initiatives to regulate online speech through statutory frameworks such as the Information Technology

Act, 2000, and subsequent regulations— including the IT Intermediary Guidelines and Digital Media Ethics Code Rules, 2021—demonstrate efforts to strike a balance between protecting democratic liberties and addressing the urgent necessity to regulate harmful online activities. These regulatory measures have ignited intense discussions concerning the boundaries of censorship, the extent of governmental authority, and the obligations of digital platforms. Pivotal judicial rulings, including the

Supreme Court's landmark decision in [1] *Shreya Singhal v. Union of India (2015)*— which declared [2] Section 66A of the IT Act unconstitutional due to its overly broad scope—and cases concerning online hate speeches, highlights the judiciary's essential role in interpreting constitutional freedoms in the context of technological advancement. This paper situates the discourse on freedom of expression within the wider context of India's constitutional democracy at its 75-year milestone. It analyzes how the digital age challenges traditional notions of free expression and investigates the legal, institutional, and societal measures employed to address this evolving landscape. Central to this discourse is the tension between safeguarding individual freedoms and promoting responsible speech that does not incite social discord or jeopardize public stability. Furthermore, the notable equilibrium between constitutional morality and popular mandate, particularly in the context of digital governance, underscores the complex relationship between rights and regulation. The seminar titled "75 Years of the Indian Constitution: Reflecting on Democratic Ideals, Institutional Challenges, and the Road Ahead" offers a timely and interdisciplinary forum for scholarly discourse on these critical constitutional issues. This paper, aligned with the theme of Democratic Rights and Freedoms, advances this discourse by offering a nuanced analysis of freedom of speech in the digital era, highlighting the importance of transparency, education, and a regulatory framework that respects

© 2026 Joint Jurist (All Rights Reserved) e-ISSN -3139-6186

No part of this publication may be reproduced without prior written permission, except for educational purposes.

fundamental rights. It asserts that upholding constitutional principles while accommodating technological developments is essential for fostering a robust digital democracy. By analyzing the progression of free speech protections, reviewing significant legislative and judicial developments, and evaluating challenges in digital governance, the paper seeks to provide insights into preserving democratic freedoms in the face of rapid societal transformation. Ultimately, it promotes regulatory strategies rooted not in censorship but in encouraging responsible technological use, safeguarding dignity and diversity, and upholding the Constitution as the fundamental charter that directs India's democratic progress in the digital age.

[1] *Shreya Singhal v. UOI*, AIR 2015 SC 1523 https://indiankanoon.org/doc/110813550/ [2] Section 66 of IT Act: Penalizes anyone who "dishonestly or fraudulently" commits any of the acts listed in Section 43 of the Act. https://www.scobserver.in/journal/section-66a-the-dead-law-that-still-haunts india/

2. LITERATURE REVIEW

The right to freedom of speech and expression is a fundamental cornerstone of democratic societies, enshrined in [3]Article 19(1)(a) of the Indian Constitution. This provision is vital for promoting transparent communication, a variety of perspectives, and accountability within the government.

Classical constitutional scholars like Granville Austin have highlighted how the architects of the Indian Constitution intentionally secured this right, while permitting reasonable restrictions to maintain social order and individual liberties. Over time, these **justifiable restrictions—outlined under Article 19(2)** regarding sovereignty, public order, decorum, and defamation—have been extensively examined through judicial interpretation and scholarly discussion. With the proliferation of digital communication technologies, scholarly literature increasingly examines the intricate challenges introduced by the internet and social media platforms. Scholars such as **Anja Kovacs and Surya Deva** have observed that digital environments promote the democratization of expression but also serve to magnify detrimental content including hate speech, misinformation, and harassment, potentially undermining social cohesion. In this context, the Indian legal system is tasked with safeguarding constitutional rights while addressing emergent threats posed by unregulated online speech. Research underscores that digital intermediaries, such as social media platforms, serve a vital function as administrators in content moderation, a phenomenon extensively examined within the framework of intermediary liability legislation. The Information Technology (IT) Act, 2000, especially Section 66A—which criminalized the transmission of offensive messages via communication services—became a central topic in debates concerning the regulation of digital free expression. The Supreme Court's landmark ruling in [4]***Shreya hingr lS v.S UnionS ofS Indi S (2015)*** invalidated this section on the grounds of ambiguities and overbreadth, reaffirming the paramount importance of constitutional protections for free speech, even within the digital realm. Commentators contend that this decision signifies a pivotal moment in safeguarding digital rights while simultaneously exposing deficiencies in the effective regulation of online abuse and misinformation. Additional academic research analyzes the changing regulatory

[3] Art. 19(1)(a): All person shall have freedom of speech and expression

[4] *Shreya Singhal v. UOI,* AIR 1015 SC 1523. https://indiankanoon.org/doc/110813550/

© 2026 Joint Jurist (All Rights Reserved) e-ISSN -3139-6186

No part of this publication may be reproduced without prior written permission, except for educational purposes.

environment, particularly the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. These regulations establish due diligence and grievance redressal procedures for intermediaries and digital news platforms, prompting discussions regarding possible government overreach and the impact on press freedom. Legal scholars warn that although these provisions seek to mitigate online abuses, they may inadvertently grant the state disproportionate authority over digital expression, thereby potentially compromising democratic dialogue. Judicial responses to online hate speech have also been examined in scholarly literature, with cases such as [5]***Shr l iS h ng hr nS v.S Union ofS Indi S (2014)*** highlighting the constitutional tension between restricting inflammatory content and safeguarding lawful expression. Authors emphasize the challenge of establishing clear distinctions between speech that incites violence and that which merely causes offense, raising concerns regarding proportionality and contextual considerations in judicial review. The significance of constitutional morality—as a normative principle that directs constitutional interpretation—has emerged as a key subject in debates on digital governance. Scholars such as **Upendra Baxi and Rajeev Dhavan** contend that constitutional morality necessitates the reconciliation of individual liberties with the collective interests in dignity, equality, and social harmony. In digital discourse, this principle confronts majoritarian tendencies and populist calls for censorship, thereby upholding the principles of inclusive democracy. In addition to legal literature, interdisciplinary research in communication studies, sociology, and political science enhances the comprehension of digital speech dynamics. Research indicates the dual role of social media as both a facilitator of citizen empowerment and a space for polarization and echo chambers. Authors emphasize the importance of civic education, media literacy, and transparency in content algorithms as vital complements to legal reforms. Overall, the reviewed literature aligns with the perspective that freedom of speech in the digital age requires a comprehensive regulatory framework—one that upholds constitutional rights, manages technological intricacies, and encourages responsible digital citizenship. The difficulty resides in reconciling centuries-old

[5] *Pravasi Bhalai Sangathan v. UOI,* AIR 2014 SC 1591.https://projects.itforchange.net/online-violence gender-and-law-guide/module-2-typologies-of-online-gender-based-offenses-in-law/2-6-gender-based hate-speech/

constitutional principles with the dynamic, transnational, and frequently anonymous nature of digital communication, all without undermining democratic values.

3. DISCUSSION

The right to freedom of speech and expression is of great importance under the Indian Constitution, guaranteed by Article 19(1)(a). These essential rights grant citizens the freedom to articulate their views, opinions, and beliefs through any medium without apprehension of government suppression. Rooted in the Preamble of the Constitution—which commits to safeguarding liberty of thought and expression—this right forms a fundamental element of India's democratic structure. It promotes not only individual self-development and autonomy but also supports open public discourse, governance accountability, and pluralism within a diverse society. Judicial rulings have reaffirmed the expansive nature of this liberty, acknowledging elements such as freedom of the press, the right to access and disseminate information, and even the right to silence. However, Article 19(2) permits reasonable restrictions on this right for reasons including sovereignty, public order, morality, defamation, and other specified grounds, necessitating a delicate balance to protect democratic liberties while ensuring

© 2026 Joint Jurist (All Rights Reserved) e-ISSN -3139-6186

No part of this publication may be reproduced without prior written permission, except for educational purposes.

social harmony. In recent decades, the emergence of the digital era has significantly reshaped the landscape of free expression. The internet and social media platforms have transformed communication, broadening opportunities for immediate, transnational expression and fostering a dynamic public sphere in which citizens can engage, mobilize, and exchange ideas more extensively than ever before. Nonetheless, these emerging forms of expression have also raised significant regulatory and ethical challenges. The digital medium has emerged as a channel for hate speech, misinformation, online harassment, and digital content manipulation, prompting essential discussions on how to regulate expression without violating constitutional liberties. The digital era consequently necessitates a re-evaluation of conventional frameworks for speech regulation in India. The government's legal instruments, such as the Information Technology Act and the recent IT Intermediary Guidelines, are designed to tackle online harms but also raise concerns regarding censorship and overreach by the state. Judicial interpretations persist in evolving, aiming to uphold constitutional morality and free expression while recognizing the realities of digital communication. This discussion examines the constitutional importance of free speech

and the challenges presented by the digital age for its regulation. It critically analyzes the function of judiciary, government regulation, intermediary responsibilities, and the wider technological and societal framework. Key issues encompass the equilibrium between rights and responsibilities, the prevention of hate speech and misinformation, the safeguarding of privacy, and the promotion of responsible digital citizenship. The discussion seeks to offer a comprehensive analysis of how India's constitutional framework engages with emergent digital challenges to influence the future of free speech and democracy.

1) Balancing Freedom of Speech with Reasonable Restrictions

The right to freedom of speech and expression is constitutionally protected under Article 19(1)(a) of the Indian Constitution. This provision grants all citizens the right to freely articulate their opinions through any medium, including spoken words, written communication, publishing, and digital channels. The privilege is firmly rooted in the democratic principles articulated in the Preamble of the Constitution and is regarded as fundamental to personal development, governmental accountability, and societal advancement. However, this privilege is not unfettered; it is subject to reasonable restrictions imposed pursuant to Article 19(2). These limitations guarantee that freedom of expression does not jeopardize sovereignty, public order, decency, morality, contempt of court, defamation, or incitement to criminal activity. The authority of the state to restrict expression is intended to balance personal freedoms with the collective good and the preservation of social order. The emergence of the digital era has significantly complicated this balancing act. The internet and social media platforms have democratized communication, enabling individuals to express their opinions instantaneously and reach extensive audiences with unprecedented accessibility. Nevertheless, this also enables the swift dissemination of hate speech, misinformation, and detrimental content, which can intensify social divisions, provoke violence, and erode public confidence. Traditional speech regulation frameworks find it challenging to accommodate the scope, velocity, and borderless characteristics of digital communication, thereby requiring innovative legal and regulatory solutions. Central to this regulatory challenge is the principle of proportionality, which requires that any

restrictions on expression be necessary, appropriately tailored, and the least intrusive means to achieve legitimate aims. Restrictions must not be arbitrary, excessive, or utilized as a means of

© 2026 Joint Jurist (All Rights Reserved) e-ISSN -3139-6186

No part of this publication may be reproduced without prior written permission, except for educational purposes.

censorship or political suppression. Courts in India have underscored that reasonable restrictions must uphold a delicate balance—ensuring the protection of democratic discourse while also preserving public order and individual dignity. Therefore, within the digital environment, regulations must meticulously balance the safeguarding of free speech with the necessity to mitigate online offenses, ensuring that the right to expression remains strong yet accountable. This framework directs the wider discussion on freedom of expression in the digital age, shaping the legal, ethical, and constitutional debates examined in the discussion section of this paper.

2) Judicial Interpretations and Landmark Cases

Instrumental in defining the boundaries of digital free expression within India. The landmark case of *Shreya Singhal v. Union of India* (2015) signifies a pivotal moment in this context. The Supreme Court invalidated Section 66A of the Information Technology Act, 2000, which criminalized the transmission of objectionable messages via communication services. The Court determined that the provision was excessively broad, imprecise, and prone to abuse, thereby impeding the fundamental right to freedom of speech and expression protected under Article 19(1)(a). The Court underscored that limitations on speech must be specific, unambiguous, and well founded, cautioning against legislation that may induce a chilling effect on individuals' online expression. This ruling reaffirmed that digital expression is safeguarded by constitutional protections, aligning rights online with those offline. Notably, the Court correlated the extent of free speech directly with the principle of proportionality, affirming that regulations must pursue a legitimate objective without unduly infringing upon the right. It also delineated the obligations of intermediaries pursuant to [6]Section 79 and the regulations of the IT Act, highlighting that liability should be imposed solely when specific knowledge of illicit content is acquired through legitimate legal procedures, predominantly court orders. The Court's approach in Shreya Singhal

[6] Section 79 of the IT Act provides a "safe harbor" to internet intermediaries, exempting them from liability for third-party content, provided they act as neutral hosts and observe due diligence.

highlights the developing notion of constitutional morality, which entails interpreting rights in a way that upholds individual dignity and accommodates societal diversity. It also established the foundation for subsequent jurisprudence concerning the balancing of free expression with governmental interests such as the preservation of public order. For instance, subsequent cases such as [7]***Sunn lS u re S v.S UnionS ofS Indi S (2024)*** explored the boundaries of intermediary liability, affirming that legal obligations should not encroach upon private censorship driven solely by self-interest or commercial motives, thereby supporting nuanced judicial perspectives on digital rights. Furthermore, the case has established a precedent indicating that legislation impacting digital expression must be precisely defined and carefully crafted, highlighting the importance of judicial oversight in safeguarding citizens' online rights. It reaffirmed

that broad or ambiguous provisions threaten to restrict lawful expression, thereby promoting a judicial climate that emphasizes constitutional safeguards amid the rapid pace of technological change. This jurisprudential trend underscores a continuous judicial endeavor to reconcile constitutional liberties with evolving digital realities, thereby advancing the discourse on free expression, responsible regulation, and the rule of law in India's digital era.

3) Government Regulation and Intermediary Liability Framework

© 2026 Joint Jurist (All Rights Reserved) e-ISSN -3139-6186

No part of this publication may be reproduced without prior written permission, except for educational purposes.

The Information Technology offenses, offenses, including hacking, identity theft, the dissemination of obscene material, and cyber terrorism, and prescribes appropriate penalties accordingly. Key provisions encompass [8] **Section 66 (cyber offenses)**, [9] **Section 69 (government authority to intercept and monitor information for**

[7] *Kunal Kamra v. UOI:* The Bombay High Court (2:1) held that Rule 3(1)(b)(v) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2024, is unconstitutional [8] This section states that if any person, dishonestly or fraudulently, does any act refer to the section 43, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five lakh or with both.

[9] Power to issue directions for interception or monitoring or decryption of any information through any computer resource. https://www.indiacode.nic.in/showdata?actid=AC_CEN_45_76_00001_200021_1517807324077&orderno=88

national security purposes), and [10]**Section 70 (protection of critical information infrastructure).** The Act also encompasses regulations pertaining to intermediaries, including the Intermediary Guidelines and the Digital Media Ethics Code Rules, 2021.

Under these regulations, digital intermediaries—such as social media platforms, messaging , and search engines—are obligated to oversee content moderation, remove illegal postings, designate grievance officers, and ensure transparency. They benefit from "safe harbor" protections, which shield them from liability unless they neglect to adhere to government directives or court orders. These regulations are designed to strike a balance between safeguarding free expression and mitigating digital harms such as hate speech, misinformation, and illegal content. Nevertheless, apprehensions persist concerning possible government overreach and the dangers of censorship. The extensive range of regulations, ambiguous definitions, and opaque enforcement procedures may enable state authorities to suppress dissent or disfavor of expression. Critics contend that the absence of transparent review and appeal procedures compromises user rights and may result in arbitrary content removals. Furthermore, the regulations mandate that intermediaries adopt technological measures, which could affect user privacy and encryption. Therefore, although the IT Act and associated regulations aim to protect digital environments and maintain public order, they must also honor constitutional freedoms. Attaining this balance requires transparent, accountable, and precisely targeted enforcement that safeguards both individual rights and societal interests in the digital age.

4) Challenges of Hate Speech and Online Harm

Regulating hate speech on digital platforms in India presents a complex and urgent challenge, characterized by the necessity to reconcile fundamental rights with social harmony. Hate speech generally denotes expressions that incite animosity, hostility, or discrimination against individuals or groups on the grounds of religion, caste, ethnicity, gender, sexual orientation, or other identities. The digital era has expanded the scope and influence of such discourse, underscoring the importance of prompt and effective regulation. Indian law regulates hate speech through various provisions

[10] declares that any computer resource affecting Critical Information Infrastructure (CII) can be declared a "protected system" by the government. https://share.google/yMtoTj6C4RCJdopJU

© 2026 Joint Jurist (All Rights Reserved) e-ISSN -3139-6186

No part of this publication may be reproduced without prior written permission, except for educational purposes.

dispersed across different statutes rather than a singular, dedicated legislation. Key provisions of the Indian Penal Code include:

• **Section 153A,** which criminalizes the promotion of enmity and animosity between different groups based on religion, race, caste, or community, with penalties comprising imprisonment or fines.

• **Section 295A,** which criminalizes intentional acts designed to insult religious sentiments.

• **Section 505,** which criminalizes statements that induce terror or alarm among the public. Although these provisions address offline and certain online expressions, they lack precise definitions specifically adapted to digital environments, resulting in inconsistent enforcement and potential claims of misuse. The judgment in [11]***Pe v siS hr l iSh ng hr nSv.SUnionSofSIndi*** recognized these deficiencies and emphasized the need for more explicit legislation. In response, the [12]Karnataka Hate Speech and Hate Crimes Prevention Bill, 2025, was enacted to explicitly address digital hate speech, extending its purview to encompass social media posts, memes, and messages. This legislation criminalizes the dissemination of offensive content online and imposes prompt takedown obligations on digital platforms. Nevertheless, these regulatory initiatives give rise to constitutional

considerations. The expansive and ambiguous definitions of hate speech threaten to infringe upon the free speech protections afforded by Article 19(1)(a) of the Constitution. Enforcement mechanisms that lack transparency may result in arbitrary censorship or the suppression of legitimate dissent. Furthermore, a nuanced tension exists between safeguarding vulnerable communities from damage and maintaining open democratic discourse. Overall, regulating hate speech online requires sophisticated statutory frameworks, judicial oversight, and societal participation that mitigate damage without compromising constitutional liberties, thereby promoting responsible digital citizenship within India's diverse society.

[11] *Bhalai Sangathan v. UOI: https://theamikusqriae.com/case-commentary-on-pravasi-bhalai sangathan-v-union-of-india/*

[12] The bill defines hate speech as any communication, including online and offline content, that shows a clear intention to harm or incite harm or propagate hatred based on religion, race, caste, sex, gender, sexual orientation, place of birth, residence, language, disability, or tribe.

5) Privacy, Surveillance, and Their Impact on Free Speech

The right to privacy and freedom of expression are profoundly interconnected, especially within the digital environment. The Supreme Court's landmark judgment in Justice [13]*K.S. Puttaswamy v. Union of India* (2017) definitively acknowledged the right to privacy as a fundamental right inherent to the right to life and personal liberty under Article 21 of the Indian Constitution. It held that privacy protects individual autonomy, dignity, and the freedom of self-expression from unwarranted state interference. This acknowledgment affirms that digital environments must uphold privacy rights with the same rigor as physical spaces. Nevertheless, the state's surveillance capabilities, frequently justified on the basis of national security and public order, pose a fundamental tension. Surveillance may exert a stifling influence on free expression, as individuals might self-censor due to concerns that their communications are being observed.

© 2026 Joint Jurist (All Rights Reserved) e-ISSN -3139-6186

No part of this publication may be reproduced without prior written permission, except for educational purposes.

The Puttaswamy judgment established that any interference with privacy, including state surveillance, must comply with stringent constitutional safeguards:

legality, necessity, legitimate objective, and proportionality. Unauthorized or excessive surveillance is unconstitutional as it infringes upon the rights to privacy and free expression. Ongoing discussions in India focus on reconciling robust security measures with the safeguarding of constitutional liberties. Laws permitting interception and data collection must incorporate comprehensive procedural safeguards, transparency, and independent oversight to prevent abuse. The Aadhaar biometric identification system elicited considerable privacy concerns, emphasizing the potential risks of data breaches and compulsory data disclosure, which the Court assessed considering the principle of proportionality. In summary, safeguarding the right to privacy is crucial for the realization of genuine freedom of expression, particularly in the digital realm. The constitutional framework demands a delicate balance—upholding state interests without undermining democratic freedoms— ensuring surveillance practices do not erode the fundamental rights that sustain open and free discourse in a digital democracy.

[13] *K.S Puttaswamy v. UOI,* AIR 2018 SC (SUPP) 1841. https://indiankanoon.org/doc/127517806/

6) Technological Influences on Digital Speech

Artificial intelligence (AI), algorithms, and content filtering systems have become integral to the regulation and influence of digital discourse on social media and other digital platforms. With the vast amount of user-generated content, these automated tools facilitate the detection and regulation of harmful, offensive, or deceptive material at a scale and pace beyond the capabilities of human moderators alone. AI-driven moderation utilizes machine learning, natural language processing, and computer vision to assess text, images, and videos for policy infringements, facilitating proactive content eradication or flagging prior to broader distribution. However, these technologies are accompanied by certain limitations and concerns. Biases inherent in training data may lead to disproportionate targeting or suppression of specific groups or perspectives, raising concerns regarding fairness and representation. Algorithms frequently fail to incorporate contextual and cultural nuances, resulting in either excessive censorship or insufficient detection of detrimental content. Furthermore, the opaque nature of these systems—such as proprietary algorithms and insufficient transparency—poses accountability challenges, especially when users encounter content removals without clear justifications or avenues for appeal. Considering these complexities, technological content moderation cannot replace comprehensive legal safeguards and human supervision. Legal frameworks such as the Information Technology Act and Intermediary Guidelines establish boundaries and responsibilities for platforms, emphasizing procedural fairness and transparency. Nevertheless, technology must be supplemented by comprehensive civic education initiatives to improve digital literacy, enable users to critically assess information, and foster responsible online conduct. This integrated approach is essential for maintaining the equilibrium between free expression and the necessity of safeguarding users from online harms while upholding democratic dialogue. Technological tools provide significant support; however, they must be implemented ethically, transparently, and inclusively within a comprehensive framework of legal protections and public awareness efforts.

7) Promoting Responsible Digital Citizenship

© 2026 Joint Jurist (All Rights Reserved) e-ISSN -3139-6186

No part of this publication may be reproduced without prior written permission, except for educational purposes.

Responsible digital citizenship is essential for sustaining a balanced and thriving digital environment. Transparency is essential, necessitating that platforms explicitly convey their content moderation policies, enforcement procedures, and users' rights to challenge decisions. Educating users through media literacy initiatives is essential to enable them to critically assess information, identify misinformation, and participate constructively in online discourse. Educational initiatives conducted by schools, governments, and civil society organizations promote awareness of digital rights and responsibilities, thereby encouraging ethical conduct online. Collaboration among government entities, judiciary, digital platforms, and civil society is essential for the effective governance of digital initiatives. Governments should establish conducive environments through transparent and equitable regulations that uphold constitutional freedoms. The judiciary assumes a vital role in safeguarding rights and maintaining accountability in digital disputes. Platforms are required to establish transparent moderation and grievance redressal mechanisms, while civil society advocates and educators work to raise public awareness and oversee violations of digital rights. Multi stakeholder dialogue promotes mutual comprehension and collaborative solutions to digital challenges.

Fundamental constitutional principles underpin these initiatives and must serve as the guiding framework for the digital ecosystem. Respect for freedom of speech and expression, privacy, equality, and non-discrimination guarantee that regulations uphold democratic discourse while avoiding arbitrary censorship. The rule of law and due process protect citizens from unwarranted restrictions. By integrating these principles into digital citizenship education and policies, India can cultivate responsible users who can make positive contributions to a diverse digital society, maintaining a balance between individual liberties and the collective welfare amidst emerging technological challenges. This comprehensive approach is vital to establishing a resilient digital democracy that upholds constitutional principles while addressing the challenges of the digital era.

- The analysis Indicates that freedom of speech in India's digital age presents a complex constitutional challenge, requiring a careful balance between protecting individual rights and managing emergent technological and societal risks. Landmark judicial rulings, including the Shreya Singhal judgment,

reaffirm the supremacy of constitutional safeguards against vague or overly restrictive limitations, establishing a precedent for digital expression rights. However, regulatory frameworks such as the Information Technology Act and the 2021 Intermediary Guidelines must adapt transparently and proportionately to mitigate online harms without constraining democratic discourse or facilitating state overreach. Technological influences— such as AI-driven algorithms and content moderation tools—have reshaped the visibility of speech, while also presenting challenges concerning prejudice, accountability, and lack of transparency. These emphasize the essential necessity for technology to function within strong legal and ethical frameworks. The right to privacy, as articulated in the Puttaswamy judgment, is fundamental to the freedom of expression, underscoring safeguards against intrusive surveillance measures that inhibit speech. Effective regulation of digital expression requires a comprehensive, multi-stakeholder approach that actively engages government agencies, judicial authorities, digital platforms, civil society organizations, and empowered users. Transparency in enforcement, grievance mechanisms, media literacy, and civic education are essential for cultivating responsible digital citizenship

© 2026 Joint Jurist (All Rights Reserved) e-ISSN -3139-6186

No part of this publication may be reproduced without prior written permission, except for educational purposes.

grounded in constitutional principles of liberty, equality, and pluralism. In summary, safeguarding freedom of speech in the digital era necessitates a balanced legal and technical framework that upholds human rights while accommodating the complexities of digital communication. Upholding constitutional liberties through principled and participatory governance is vital for India to prosper as a dynamic digital democracy were speech advances responsibly and inclusively. This comprehensive and rights based framework provides a sustainable trajectory ahead of rapid technological advancements and intricate social dynamics.

4. HYPOTHESIS

1. The current legal and regulatory frameworks in India governing digital speech encounter substantial challenges in balancing constitutional liberties with the necessity to address online harms such as hate speech, disinformation, and privacy breaches.

2. Judicial interventions, including landmark rulings such as [14]*Shreya Singhal v. Union of India*, have played a crucial role in reaffirming constitutional safeguards for digital expression but necessitate supplementary legislative and policy measures to effectively regulate online content.

3. Technological tools, such as AI-driven content moderation algorithms, while essential for managing digital content at scale, raise new concerns regarding algorithmic bias, lack of transparency, and accountability issues that impact the equitable enforcement of speech protections.

4. The effective governance of digital expression necessitates a multi stakeholder approach that includes the government, judiciary, digital platforms, civil society, and users to promote transparency, uphold constitutional principles, and foster responsible digital citizenship.

5. Enhancing civic education and media literacy is essential for empowering individuals to effectively navigate the complexities of digital communication, thereby cultivating an informed and active citizenry capable of making meaningful contributions to democratic dialogue.

6. Privacy rights, as defined by the **Puttaswamy judgment**, are fundamental to the realization of genuine freedom of speech, particularly in digital environments where surveillance may exert a debilitating effect on expression.

5. OBJECTIVE

1. To examine the existing constitutional and legal framework governing freedom of expression within India's digital domain, with particular emphasis on the equilibrium between rights and limitations.

2. To analyze landmark judicial rulings and their impact on influencing freedoms of digital expression and government oversight.

[14] *Shreya Singhal v. UOI,* AIR 2015 SC 1523

3. To evaluate the duties and responsibilities of digital intermediaries and the implications of recent regulatory measures, including the Information Technology Act and the 2021 Intermediary Guidelines.

© 2026 Joint Jurist (All Rights Reserved) e-ISSN -3139-6186

No part of this publication may be reproduced without prior written permission, except for educational purposes.

4. To examine the influence of emergent technologies such as artificial intelligence and algorithms on content moderation, along with the associated challenges concerning bias, transparency, and accountability.

5. To examine the issues presented by hate speech, misinformation, and online harms, and to assess the adequacy and effectiveness of current legal frameworks.

6. To examine the convergence of privacy rights and freedom of expression, with a focus on constitutional protections against invasive surveillance. 7. To establish a comprehensive, rights-based framework for the regulation of digital expression that integrates legal safeguards, technological innovations, educational initiatives, and multistakeholder governance.

8. To promote the development of improved civic education and media literacy programs that foster responsible and informed digital citizenship in alignment with India's constitutional principles.

6. CASE STUDIES

India's developing digital speech regulation framework encompasses landmark cases and recent developments that exemplify both achievements and obstacles in maintaining a balance between free expression and regulatory requirements. One of the most notable cases is [15]***hreya Shingr lSv.SUnionSofSIndi S*(2015)**. The Supreme Court invalidated Section 66A of the Information Technology Act, which criminalized the transmission of "offensive" messages through electronic communication. The Court determined that the provision is vague, excessively broad, and prone to misuse, thereby intruding upon constitutional free speech protections under Article 19(1)(a). This decision represented a significant triumph for digital expression rights, delineating more precise boundaries for government restrictions and affirming that online speech is entitled to the same constitutional protections as offline speech. It also limited the

[15] *Shreya Singhal v. UOI,* AIR 2015 SC 1523. https://indiankanoon.org/doc/110813550/

extent of intermediary liability, highlighting that platforms are not liable for user generated content unless mandated by a court order.

More recently, in [16]***Sunn lS u re S v.S UnionS ofS Indi* (2024)**, the Supreme Court invalidated certain ambiguous regulations under the IT Act imposed on intermediaries, emphasizing that enforcement must be proportionate and consistent with constitutional rights, thereby reaffirming judicial oversight to prevent arbitrary exercise of state authority.

Nevertheless, regulatory challenges continue to remain. In 2025, the Karnataka High Court affirmed the validity of the government's **Sahyog portal**, which enables numerous government officials to issue termination orders for online content pursuant to [17]**Section 79(3)(b) of the IT Act** and the [18]**2021 Intermediary Guidelines.** Critics contend that Sahyog's extensive delegation lacks sufficient procedural safeguards, transparency, and judicial oversight, thereby jeopardizing unregulated censorship and possible suppression of dissent without remedy. This case illustrates the tensions between the prompt regulation of detrimental content and the safeguarding of constitutional freedoms within the digital domain. From the successful safeguarding of free speech in the Shreya Singhal case to the issues highlighted by Sahyog, these instances illustrate India's intricate digital governance evolution. They emphasize the persistent necessity for clear, transparent, and constitutionally consistent frameworks that effectively balance damage

© 2026 Joint Jurist (All Rights Reserved) e-ISSN -3139-6186

No part of this publication may be reproduced without prior written permission, except for educational purposes.

prevention with the protection of the fundamental right to free expression online. Effective regulation must balance technological innovation, judicial directives, and democratic principles to ensure a free yet accountable digital public sphere. This case study overview underscores both the advancements achieved and the ongoing challenges within India's digital speech regulation ecosystem.

[16] *Kunal Kamra v. UOI, SC 2014* https://share.google/CQZrFPm7cf4kzocKm

[17] This provision removes the legal protection that would otherwise shield online platforms (intermediaries) from being responsible for content posted by their users.

[18] 2021 Intermediary Guidelines: https://www.meity.gov.in/static/uploads/2024/02/Information Technology-Intermediary-Guidelines-and-Digital-Media-Ethics-Code-Rules-2021-updated 06.04.2023-.pdf

7. CONCLUSION

India's digital speech regulation terrain demonstrates a complex interplay between encouraging free expression and mitigating online harms within a rapidly advancing technological environment. The constitutional guarantee of the right to freedom of speech and expression, codified in Article 19(1)(a), forms the foundation of democracy and social fabric. Landmark rulings such as Shreya Singhal v. Union of India have reaffirmed that digital expression is afforded the same constitutional safeguards as offline speech, thereby scrutinizing ambiguous or overbroad legislation susceptible to misuse.

Nevertheless, the proliferation of hate speech, misinformation, and digital offenses necessitates that the state and platforms act responsibly within the limits of the constitution. The legal frameworks, such as the Information Technology Act, 2000, the 2021 Intermediary Guidelines, and emerging initiatives like the Digital India Act, seek to address this complex challenge. Nevertheless, these laws are subject to criticism for possible overreach, lack of transparency, and inadequate procedural safeguards. The Karnataka Sahyog portal case exemplifies the potential hazards associated with accelerated removal processes that may circumvent judicial scrutiny and violate individual rights. Meanwhile, the development of surveillance and data collection practices emphasizes the fundamental importance of privacy as acknowledged in the Puttaswamy judgment, highlighting the potential stifling impact that excessive monitoring can have on free expression. Technological advancements have led to the implementation of AI and algorithmic content moderation, enhancing efficiency while also raising concerns regarding transparency, bias, and accountability. This requires a meticulous integration of legal criteria, platform accountability, and human supervision. Furthermore, fostering media literacy and responsible digital citizenship through education and civic participation is essential to enabling users to effectively navigate digital challenges. The future of digital free speech regulation in India depends on a balanced, transparent, and multi-stakeholder governance framework grounded in the constitutional principles of liberty, equality, and dignity. Policymaking should prioritize proportionality, procedural fairness, and participatory supervision to sustain a robust democratic discourse in the digital realm. Further research should investigate mechanisms to enhance transparency in algorithmic moderation, judicial supervision of content removal procedures, and comprehensive civic education

© 2026 Joint Jurist (All Rights Reserved) e-ISSN -3139-6186

No part of this publication may be reproduced without prior written permission, except for educational purposes.

frameworks. Policymakers must also examine the influence of emergent technologies and international best practices to safeguard India's digital rights ecosystem for the future. In conclusion, safeguarding freedom of speech in digital India necessitates nuanced, legally sound, and socially inclusive approaches that uphold constitutional rights while effectively resolving the complexities and potential harms associated with the digital era. This dual imperative is essential for fostering a dynamic, diverse digital democracy that empowers citizens and upholds democratic principles.

REFERENCE

Cases:

• *Shreya Singhal v. Union of India,* AIR 2015 SUPREME COURT 1523. https://indiankanoon.org/doc/110813550/

• *K.S. Puttaswamy v. Union of India,* AIR 2017 SUPREME COURT 4161. https://indiankanoon.org/doc/91938676/

• Sahyog Portal Case, W.P. No. 7405/2025, Karnataka High Court (2025). https://www.scconline.com/blog/post/2025/10/03/karnataka-hc-x-corp-challenge to-sahyog-portalrejected/

• *Kunal Kamra v. Union of India* https://globalfreedomofexpression.columbia.edu/cases/kunal-kamra-v-union of-india/

Statutes and Rules:

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

• Information Technology Act, No. 21 of 2000.

• Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, Government of India.

Reports and Articles:

• Columbia Center for Global Freedom of Expression. (2025). Justice *K.S. Puttaswamy (Retd.) v.*

Union of India: The Right to Privacy.

https://globalfreedomofexpression.columbia.edu/

• MediaNama. (2025). India Digital Speech Regulation Updates.

https://www.medianama.com/2025/11/223-event-report-regulating deepfakes-in-india/

• Politics for India. (2025). Free Speech Regulation in Digital Space. https://politicsforindia.com/free-speech-regulation-in-digital-space/

© 2026 Joint Jurist (All Rights Reserved) e-ISSN -3139-6186

No part of this publication may be reproduced without prior written permission, except for educational purposes.