

Constitutionalizing the Right to Internet: An Analysis of Indian Digital Rights Framework*

by Dr. Prashant Kumar Srivastava

Assistant Professor, Institute of Legal Studies,
Shri Ramswaroop Memorial University, Lucknow- Deva Road, Uttar Pradesh.

Abstract

This research involves a systematic analysis of the legal and constitutional framework governing internet access in India. Initially, it focuses on the historical development of internet-related rights in India and to identify key legal provisions and judicial precedents. Subsequently, the research explores into the Indian Constitution, focusing on fundamental rights and freedoms such as freedom of speech and expression, privacy, and equality, and their relevance to the right to internet access. Case law and legal interpretations have also been analysed to explore that, how the courts have addressed internet-related issues? Additionally, the research investigates government policies and regulations related to internet access and censorship. The research culminates in a comprehensive analysis, offering insights into the constitutional foundations, challenges, and potential future developments regarding the right to internet in India with the aim of contributing to the discourse on this crucial issue.

Key words: right, internet, data protection, cyber security, digital etc.

Introduction:

In the digital age, the internet has emerged as a transformative force that reshapes the way individuals interact, communicate and access information. As societies become increasingly interconnected through digital platforms, the question of whether access to the internet should be considered a fundamental human right has gained prominence. This analysis aims to explore the intricate dimensions of the "Right to Internet" as a fundamental right, scrutinizing its implications, complexities, and broader societal impact.

The concept of fundamental rights has long been a cornerstone of democratic societies, protecting individuals' inherent dignities and liberties. Traditionally encompassing civil, political and social rights, the advent of the internet has exploded discussions about whether digital access should be elevated to the status of a fundamental right. Advocates of this notion argue that the internet has become an essential tool for education, information dissemination, social participation and socio-economic advancement. It has the potential to empower individuals, amplify marginalized voices and bridge geographical barriers.

*"The internet is becoming the town square for the global village of tomorrow."*¹

The path to acknowledging the internet as a fundamental right is not lacking of challenges. The digital divide, characterized by unequal access to technology and online resources, persists as a substantial obstacle. Millions around the world, particularly in underserved regions and disadvantaged communities, lack reliable internet access, exacerbating existing socio-economic inequalities. Thus, deliberating the classification of the right to internet access as fundamental involves navigating questions of equity, inclusion, and the role of governments and other stakeholders in ensuring universal access.

The right to access the internet has gained significant recognition in contemporary society, raising discussions about whether it should be classified as a fundamental human right. This critical analysis delves into the multifaceted dimensions surrounding the notion of the "Right to Internet" as a fundamental right. It examines the evolving nature of fundamental rights in the digital age, scrutinizes the implications of recognizing internet access as a fundamental right, and explores the potential challenges and limitations associated with such a classification. It also recognizes the digital divide, wherein disparities in internet access persist, thereby hindering marginalized populations from enjoying the benefits of the digital realm.

A. Antecedents of Internet:

The historical developments of the internet have been shaped by various milestones and legal interpretations over the years. The use of internet in India can be traced back in the late 1980s and early 1990s. Its application was initially limited to academic and research institutions. However, with the liberalization of the Indian economy in 1991, the internet began to spread to a wider addressee. The emergence of the internet in India marks a transformative episode in the nation's technological and social landscape. While the internet began to take root

¹ H. James Harrington and Frank Voehl, *IV Access Controlled: The Shaping of Power, Rights, and Rule in Cyberspace* (Paton Press, California, 1st Edn., 2007).

globally in the late 20th century, India's journey with this revolutionary technology had its unique trajectory. The beginning of internet in India can be traced back to the late 1980s when academic and research institutions-initiated connectivity. Institutions like *the Indian Institute of Technology (IITs)* played a pioneering role in fostering the initial internet infrastructure.

The launch of the *Educational and Research Network (ERNET)*² in 1986 further bolstered India's early internet efforts. It was established to link educational and research institutions, fostering collaborative research and communication. In 1995, Videsh Sanchar Nigam Limited (VSNL) launched commercial internet services, making the internet accessible to a broader audience. This marked a significant shift from its earlier academic and research-oriented use.

The mid-1990s saw the emergence of various private ISPs offering internet services to individuals and businesses. The early 2000s brought the advent of mobile internet services and the expansion of broadband connectivity. Mobile service providers played a pivotal role in making internet access more ubiquitous.

Despite the internet's growth, India faced challenges related to the digital divide. Urban areas experienced faster internet adoption compared to rural regions, highlighting the need for bridging this gap. Government-led initiatives like the *National Optical Fiber Network (NOFN)* and *BharatNet* aimed at expanding broadband connectivity to rural and remote areas, addressing the digital divide.

The Digital India campaign in 2015 sought to accelerate India's digital transformation. It encompassed various projects to enhance internet accessibility and digital services across the country. The entry of Reliance Jio in 2016 brought a seismic shift in the Indian telecom and internet industry. Offering affordable data plans, Jio spurred a data revolution, significantly increasing internet usage.

The emergence of the internet in India reflects a journey from its early academic and research roots to a dynamic and evolving digital ecosystem. It has not only reshaped communication and business but has also played a vital role in education, governance, and socio-economic development, making it an integral part of contemporary Indian society.

Regulation of Internet: In 1997, the Telecom Regulatory Authority of India (TRAI) was established to regulate telecommunications and internet services. TRAI has played a pivotal role in shaping internet policies and regulations in India.

The Information Technology Act, 2000, was a significant development that provided legal recognition to electronic transactions and electronic records. It also addressed issues related to cybercrimes and electronic signatures. Over the years, there have been several controversies related to internet censorship and freedom of expression in India. The government has occasionally imposed restrictions on online content, leading to debates about the balance between free speech and national security. Freedom of expression and internet censorship are intertwined issues that have garnered significant attention in the digital age³.

Freedom of expression is a fundamental right enshrined in the Constitution of many countries, including India. In the digital realm, this right extends to online expression, allowing individuals to voice their opinions, share information, and engage in public discourse. However, the internet's borderless nature has raised complex questions about jurisdiction and the scope of this right.

Though the internet has provided a platform for free expression, it has also given rise to challenges. Governments and authorities may attempt to restrict content online, citing concerns about national security, hate speech, or misinformation. These restrictions can sometimes infringe upon individuals' right to express themselves freely. Internet restriction measures vary widely from region to region. They can include website blocking, content filtering, surveillance, and legal actions against individuals or platforms. In some cases, governments have imposed broad restrictions on social media platforms during periods of political unrest or elections.

The tension between preserving freedom of expression and addressing legitimate concerns such as hate speech, fake news, and incitement to violence requires a delicate balancing act. Striking the right balance involves robust legal frameworks, transparent regulations, and mechanisms to hold authorities accountable for any overreach in censorship efforts.

The relationship between freedom of expression and internet censorship is a complex and evolving one, as societies grapple with the challenges and opportunities presented by the digital age. Finding equitable solutions that safeguard individual liberties while addressing genuine concerns remains an ongoing endeavour.

The Aadhaar project⁴, initiated in 2009, aimed to provide every Indian citizen with a unique digital identity. This massive digital infrastructure has had implications for privacy and data protection in the internet era. India has

² Official Website of ERNET India Education & Research Network ERNET India, *available at:* <https://ernet.in> (last visited on November 28, 2025).

³ Freedom house report, *available at:* <https://freedomhouse.org/report/freedom-net> (last visited on November 26, 2025).

⁴ The Unique Identification Authority of India, *available at:* uidai.gov.in (last visited on January 2, 2026).

seen debates and activism surrounding net neutrality. In 2016, TRAI issued regulations supporting net neutrality principles, ensuring equal access to the internet for all users.

Right to Privacy Data Protection: The Supreme Court of India, in a landmark judgment in 2017⁵, declared the right to privacy as a fundamental right under the Indian Constitution. This recognition has significant implications for how personal data is collected, processed, and used. This has had implications for data protection and internet privacy laws. Data protection and privacy have become paramount concerns in the digital age, given the vast amounts of personal information shared and stored online. The rapid digitization of everyday life has led to an unprecedented proliferation of personal data. Individuals routinely share their information on social media, e-commerce platforms, and various online services, creating a vast reservoir of data.

India introduced *the Personal Data Protection Bill in 2019* to address data privacy concerns; however, it was withdrawn on 3rd August 2022 for comprehensive version. Currently, India has the Digital Personal Data Protection Act, 2023 (DPDP Act), which was enacted on 11 August 2023. The DPDP Act applies in India and extraterritorially to organizations processing data of Indian residents, though exemption for governmental agencies in the interest national security, public order or sovereignty is given⁶. Under DPDP Act, individuals have right to access, correct, update and erase their personal data and right to grievance redressal⁷. It provides that organizations must obtain valid consent, ensure data security and report data breaches to the Data Protection Board⁸, which is an independent regulatory body to oversee compliance, handle complaints and impose penalties. Penalties up to Rs. 250 crores for non-compliance, including failure to prevent data breaches or notify affected individuals⁹.

In the globalized digital landscape, cross-border data flows are common. This raises questions about how personal data is protected when it moves across borders and falls under different legal jurisdictions. International agreements and data localization measures may influence these issues. The rapid growth of e-commerce and the digital economy in India have led to regulatory developments, such as the introduction of the Goods and Services Tax (GST) for online transactions.

Ensuring cyber-security and addressing cyber threats have become top priorities for the Indian government. Legal frameworks have been evolving to tackle cybercrimes and protect national security.

The Digital India initiative was launched in 2015 with the objective to transform India into a digitally empowered society and knowledge economy. It includes various projects and policies to expand internet access and digital services. These historical developments illustrate the evolving landscape of the internet in the Indian constitutional context, encompassing legal, regulatory, and socio-political aspects. The balance between individual rights, freedom of expression, privacy, and national security continues to be a critical issue in the digital age, and it is reflected in India's legal and policy framework.

B. Emergence and Recognition of Right to Internet:

The emergence and recognition of the right to the internet represent a crucial evolution in the digital age. The right to access and use the internet has gradually been acknowledged as a fundamental human right, shaped by both historical developments and international legal frameworks. While not explicitly mentioned in most national constitutions, it has gained prominence as societies increasingly rely on the internet for communication, information, education, and commerce.

The United Nations Human Rights Council has affirmed that the same rights that people have offline must also be protected online, highlighting the importance of recognizing the right to internet access as part of the broader framework of human rights (UN Human Rights Council, 2016)¹⁰. Indian judiciary has recognized the right to access the internet as a fundamental right, emphasizing its role in enabling the exercise of other fundamental rights such as freedom of expression and access to information (Supreme Court of India, 2020)¹¹.

The recognition of the right to the internet as fundamental right raises important questions about its scope, limitations, and the responsibilities of states and other stakeholders in ensuring its realization. As the digital landscape continues to evolve, the legal and ethical dimensions of this right will undoubtedly remain a topic of extensive discussion, legal interpretation, and policy development, shaping the future of human rights in the digital age.

- ❖ **Human Rights and Digital Rights:** Human rights and digital rights represent two intersecting and increasingly intertwined domains within the modern socio-technological landscape. Human rights,

⁵ *Justice K. S. Puttaswamy (Retd.) and Another v. Union of India and Others*, AIR 2017 SC 4161.

⁶ Section 8 of the Digital Data Protection Act, 2023.

⁷ Section 13 of the Digital Data Protection Act, 2023.

⁸ Section 6 of the Digital Data Protection Act, 2023.

⁹ Section 10 of the Digital Data Protection Act, 2023.

¹⁰ United Nations Human Rights Council Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, available at: <https://www.ohchr.org> (last visited on November 16, 2025).

¹¹ *Supreme Court of India. Foundation for Media Professionals v. Union Territory of Jammu and Kashmir*, 2020 SCC online SC 453.

enshrined in international agreements and national constitutions, are the fundamental principles that safeguard the inherent dignity and freedoms of all individuals, regardless of their race, religion, gender or background. On the other hand, digital rights incorporate the protection and extension of these fundamental rights into the digital sphere, acknowledging the central role that technology and the Internet play in our lives today. As the digital realm continues to expand, issues such as online privacy, freedom of expression, access to information, and protection against digital surveillance have become integral aspects of the broader human rights discourse. Balancing the opportunities and challenges posed by the digital age while upholding traditional human rights values presents a complex and evolving area of concern for policymakers, advocates, and societies worldwide.

❖ **Legal Contexts Recognizing Right to Internet:**

Constitutional Framework: The right to Internet access in India is rooted in the Constitution's guarantee of freedom of expression and information, as articulated in Article 19(1)(a), emphasizing the significance of unrestricted access to information and the internet as a medium for expression¹². Article 19 of constitution of India provides an umbrella cover for right to internet. Various interpretations of Supreme Court in a number of cases lying under Article 19 ensure that right to internet is protected.

Supreme Court Verdicts: In an important case of *Anuradha Bhasin v. Union of India*¹³, the Indian Supreme Court affirmed the fundamental nature of Internet access, asserting that any restrictions on it must adhere to the principles of proportionality and necessity, further solidifying its recognition as a fundamental right.

Digital India Initiative: The Indian government's "Digital India" program, launched in 2015, stands as a concrete policy initiative aimed at bridging the digital divide and ensuring widespread Internet access. It seeks to provide high-speed Internet connectivity to all citizens, aligning with the recognition of the right to Internet access.¹⁴

Right to Information Act: The Right to Information Act, 2005, acknowledges the role of internet in facilitating access to government information. The Act enables citizens to access information online, reinforcing the importance of Internet access in the context of government transparency and accountability.¹⁵

International Commitments: India's recognition of the right to Internet access is also reflected in its international commitments. The country is a signatory to various international agreements, including the Universal Declaration of Human Rights, which underscores the right to seek, receive, and impart information through any media, including the Internet.¹⁶

These points collectively highlight legal and policy framework of India that acknowledges the right to internet access as an essential aspect of citizens' fundamental right.

C. Constitutional Provisions and Right to Internet:

Constitution of India plays an important role in shaping and safeguarding fundamental rights, including the right to access the internet, within a legal framework of India. In the context of India, the Constitution enshrines the spirit of this right through Article 19(1)(a), which guarantees the freedom of speech and expression to all citizens. This constitutional provision has been expansively interpreted by the judiciary to encompass not only traditional forms of expression but also modern mediums like the internet. The landmark judgment in *Anuradha Bhasin v. Union of India*¹⁷ indorsed this perspective by highlighting that internet access is an important tool for exercising the right to freedom of speech and expression in the digital age. Consequently, the Constitution of India serves as the foundation upon which the recognition and protection of the right to internet access are built, ensuring that it is firmly embedded within the legal fabric of the nation.

❖ **Right to Freedom of Speech and Expression**

The right to freedom of speech and expression is a fundamental and constitutionally protected right in many democratic nations, including India. In the Indian context, this right is enshrined in Article 19(1)(a) of the Constitution of India, which reads: "All citizens shall have the right to freedom of speech and expression." This provision serves as the cornerstone of democratic principles in India, emphasizing the importance of individual liberty and the ability of citizens to express their thoughts, opinions, and ideas freely. It encompasses not only spoken or written words but also various forms of expression, including artistic creations and non-verbal communication. However, it is essential to note that this right is not absolute and is subject to reasonable

¹² The Constitution of India, Art. 19(1)(a).

¹³ AIR 2020 SC 1308.

¹⁴ Digital India - Transforming India into a digitally empowered society and knowledge economy," Ministry of Electronics and Information Technology, Government of India, available at: <https://www.digitalindia.gov.in/about-us/> (last visited on January 02, 2026).

¹⁵ Right to Information Act, 2005 (Act 22 of 2005).

¹⁶ The Universal Declaration of Human Rights, Art. 19.

¹⁷ *Shreya Singhal v. Union of India*, AIR 2015 SC 1523.

restrictions, as delineated in Article 19(2) to (6), to protect the sovereignty and integrity of the country, maintain public order, and safeguard other vital interests. Judicial interpretations and landmark judgments have played a pivotal role in shaping the contours of this right, ensuring its preservation and evolution in India's ever-changing social and political landscape.¹⁸

The right to freedom of speech and expression is a fundamental pillar of democracy, and several landmark cases in India have helped define and protect this dynamic constitutional right. One of the most notable cases is *Kameshwar Prasad*¹⁹. In this case, the Supreme Court of India highlighted the broad scope of freedom of speech and expression, emphasizing that it encompasses not only the right to express one's views but also the right to receive information and ideas.

Another significant matter is *Brij Bhushan case*²⁰, where the court apprehended that the freedom of speech and expression includes the right to criticize the government constructively. This case set a precedent for the protection of dissenting opinions and criticisms of the government.

Additionally, *Sakal Papers case*²¹ is an important case which deals with restrictions on the freedom of the press. The court in this case observed that while reasonable restrictions could be imposed on the freedom of the press, these restrictions must be proportional and not excessive.

In the digital age, the case of *Shreya Singhal*²² played a crucial role in protecting freedom of speech online. The Supreme Court, in this case, struck down Section 66A of the Information Technology Act, deeming it unconstitutional due to its potential for misuse and curbing freedom of expression on the internet.

These cases collectively illustrate the evolving jurisprudence surrounding the right to freedom of speech and expression in India, emphasizing its significance in maintaining a vibrant and democratic society while also establishing reasonable limits to protect broader public interests.

❖ **Right to Privacy:** The right to privacy in India is a fundamental constitutional right that has gained significant recognition and protection through landmark cases and constitutional provisions. This right finds its foundation primarily in Article 21 of the Indian Constitution, which states:

"No person shall be deprived of his life or personal liberty except according to a procedure established by law." The Indian Supreme Court has interpreted this article expansively to include the right to privacy as an integral aspect of an individual's personal liberty.

One of the crucial cases that endorsed the right to privacy in India is *K.S. Puttaswamy*²³, commonly known as the "Aadhaar case." In this landmark judgment, the Supreme Court recognized the right to privacy as a fundamental right under Article 21 and held that the collection and use of personal biometric data must adhere to strict privacy standards and safeguards.

Another substantial case *R. Rajagopal*²⁴, highlighted the importance of privacy in the context of press freedom. The court held that the right to privacy could be invoked to prevent the publication of private and confidential information.

Additionally, the case of *Gobind*²⁵ helped delineate the contours of the right to privacy. The court in this case held that the right to privacy is not an absolute right but can be restricted under specific circumstances, provided that such restrictions are reasonable and justified.

In recent years, the Indian judiciary has consistently reaffirmed and expanded the scope of the right to privacy, recognizing its essential role in safeguarding individual autonomy and dignity in a rapidly evolving digital age. These cases collectively emphasize the significance of the right to privacy as a fundamental and constitutionally protected right in India's legal landscape.

D. Challenges and Controversies:

The recognition of the right to the Internet in India has been accompanied by several challenges and controversies, reflecting the complex intersection of technology, governance, and civil liberties. One prominent challenge is the issue of Internet censorship and content regulation. While the right to Internet access is acknowledged, the Indian government has, at times, imposed restrictions on online content and platforms, citing concerns about national security and social harmony. This has led to debates surrounding the extent to which such restrictions infringe upon the right to freedom of expression and access to information, as enshrined in the Indian Constitution.²⁶

¹⁸ "The Constitution of India," Ministry of Law and Justice, Government of India, available at: https://www.india.gov.in/sites/upload_files/npi/files/coi_part_full (last visited on February 18, 2024)

¹⁹ *Kameshwar Prasad v. The State of Bihar*, AIR 1962 SC 1166.

²⁰ *Brij Bhushan v. The State of Delhi*, AIR 1950 SC 129.

²¹ *Sakal Papers (P) Ltd. v. The Union of India*, AIR 1962 SC 305.

²² *Shreya Singhal v. Union Of India*, AIR 2015 SC 1523.

²³ *Justice K. S. Puttaswamy (Retd.) and Another v. Union of India and Others*, AIR 2017 SC 4161.

²⁴ *R. Rajagopal v. State of Tamil Nadu*, AIR 1995 SC 264.

²⁵ *Govind v. State of Madhya Pradesh*, AIR 1975 SC 1378.

²⁶ Freedom on the Net: India, Freedom House, available at: <https://freedomhouse.org/country/india/freedom-net> (last visited on November 28, 2025).

Another contentious issue pertains to digital privacy and surveillance. With the proliferation of digital technologies, concerns have emerged regarding mass surveillance, data breaches, and privacy infringements. The Aadhaar project, for instance, which collects biometric and demographic information from citizens, raised significant privacy concerns and prompted legal challenges, ultimately leading to the Supreme Court's recognition of the right to privacy as a fundamental right.²⁷ The delicate balance between national security interests and individual privacy rights remains a constant source of controversy.

Additionally, the digital divide poses a significant challenge to the realization of the right to the Internet. While India has made remarkable progress in expanding Internet access, disparities persist in rural and remote areas. Unequal access to the Internet exacerbates existing socio-economic inequalities, hindering individuals' ability to exercise their rights, access education, and participate in the digital economy.²⁸

Lastly, the question of net neutrality has been a subject of controversy in India. Net neutrality ensures that Internet service providers treat all data on the Internet equally, without discrimination or differential pricing. The debate over net neutrality in India led to regulatory battles and discussions on whether service providers should be allowed to offer certain content or services at higher speeds or for lower prices, potentially creating a tiered Internet that could disadvantage smaller players and limit user choice.²⁹

These challenges and controversies underscore the need for ongoing legal, regulatory, and policy discussions to ensure that the right to the Internet in India is protected while balancing competing interests and addressing the evolving landscape of digital rights and responsibilities.

Access and Affordability: Access and affordability are two critical aspects of the right to the Internet in India, and they are closely intertwined with the challenges and controversies surrounding this fundamental right.

Access to the Internet is crucial for individuals to fully exercise their rights to information, education, freedom of expression, and participation in the digital age. While India has made significant strides in expanding Internet infrastructure, including rural and remote areas, disparities in access persist. Factors such as geographical location, economic status, and digital literacy continue to create barriers to Internet access for many Indians, particularly in marginalized communities.³⁰ This digital divide undermines the inclusive nature of the right to the Internet, as it hinders the ability of certain populations to enjoy the same benefits and opportunities that digital connectivity offers.

Affordability is another major concern related to the right to the Internet. While access infrastructure may be available, the cost of Internet services and data plans can be prohibitive for a significant portion of the population. High data costs relative to income levels can limit the extent to which individuals can fully utilize the Internet's potential for education, information, and economic empowerment.³¹ This economic barrier disproportionately affects marginalized communities and exacerbates existing inequalities in access to the digital realm, further emphasizing the need for policies and measures that ensure affordable Internet access for all.

Addressing these issues requires a multifaceted approach that involves not only expanding physical access infrastructure but also implementing policies and initiatives that promote digital literacy, reduce data costs, and bridge the affordability gap. Ensuring equitable access and affordability for all citizens is essential to realizing the full potential of the right to the Internet in India and promoting a more inclusive and digitally connected society.

Content Regulation and Online Censorship:

Content regulation and online censorship in the context of the right to the Internet in India present complex challenges and have implications for access, affordability, and freedom of expression. Here are key points on this issue:

- ❖ **Balancing Freedom of Expression:** Content regulation and censorship efforts often involve balancing the right to freedom of expression with concerns such as hate speech, misinformation, and national security. Striking this balance is essential, as overly restrictive measures can curtail individuals' ability to express themselves online while being under such regulations can lead to harmful consequences.³²
- ❖ **Section 66A Controversy:** The controversial Section 66A of the Information Technology Act, which aimed to regulate online speech, was widely criticized for its potential misuse and suppression of free

²⁷ *Justice K. S. Puttaswamy (Retd.) and Another v. Union of India and Others*, AIR 2017 SC 4161.

²⁸ "India's Growing Digital Divide," Pew Research Center, available at:

<https://www.pewresearch.org/global/indias-growing-digital-divide> (last November 28, 2025).

²⁹ "Net Neutrality in India," Internet Freedom Foundation, available at: <https://internetfreedom.in/net-neutrality-in-india> (last visited on November 27, 2025).

³⁰ "India's Growing Digital Divide", available at: <https://www.pewresearch.org/global/indias-growing-digital-divide> (last visited on November 28, 2025).

³¹ "Broadband Internet Access and Affordability," Internet Society, available at: <https://www.internetsociety.org/issues/access-to-the-internet/broadband-internet-access-and-affordability> (last visited on November 28, 2025).

³² *Freedom on the Net: India*, Freedom House, available at: <https://freedomhouse.org/country/india/freedom-net> (last visited on November 28, 2025).

speech. In *Shreya Singhal v. Union of India* (2015), the Supreme Court struck down this provision, emphasizing the importance of protecting freedom of expression online.³³

- ❖ **Intermediary Liability:** India's Intermediary Guidelines and Digital Media Ethics Code Rules, 2021, have been contentious. These rules place obligations on intermediaries to remove or restrict access to content deemed unlawful. However, concerns have been raised that this could lead to overbroad content removal and self-censorship by platforms.³⁴
- ❖ **Impact on Access and Affordability:** Overly strict content regulation and censorship can have repercussions on access and affordability. Stringent regulations may discourage investment in online services and platforms, potentially limiting access options and increasing costs for end-users.
- ❖ **Need for Transparency and Accountability:** To address concerns related to content regulation and censorship, there is a need for transparency and accountability in the processes involved. Clearly defined criteria for content takedown, avenues for appeal, and oversight mechanisms can help strike a balance between free expression and regulation.

Balancing the imperative to regulate online content with the protection of fundamental rights is a complex task. Achieving this balance is critical to ensure that the right to the Internet in India is upheld while addressing the challenges associated with content regulation and online censorship.

E. Security Concerns and Cyber-Security: Security concerns and cyber-security are paramount in the context of the right to the Internet in India, especially concerning content regulation and online censorship. Here are key points with a relevant case law:

- ❖ **National Security Concerns:** India faces various national security challenges, including the potential for terrorist activities and cyber-attacks. To address these concerns, the government may resort to content regulation and censorship measures to monitor and control online communications.³⁵
- ❖ **Balancing Security and Civil Liberties:** Striking a balance between national security imperatives and the protection of civil liberties, including the right to freedom of expression, is essential. The Supreme Court, in *Shreya Singhal v. Union of India* (2015)³⁶, emphasized the need to ensure that content regulation measures do not disproportionately infringe on fundamental rights in the name of security.
- ❖ **Cyber-security Measures:** Robust cyber-security measures are necessary to protect critical infrastructure and sensitive information from cyber threats. The government has implemented cyber-security policies and initiatives, such as the National Cyber Security Policy (2013), to safeguard against cyberattacks.³⁷
- ❖ **Data Privacy and Security:** Ensuring the privacy and security of individuals' data is a crucial aspect of cyber-security. The landmark judgment in *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017)³⁸ recognized the right to privacy as a fundamental right, emphasizing the importance of protecting personal data from unauthorized access and breaches.
- ❖ **Transparency and Accountability:** To address security concerns while safeguarding rights, transparency and accountability in the implementation of cyber-security measures are vital. Mechanisms for oversight and audit of cyber-security practices can help prevent abuse and overreach.³⁹

In navigating security concerns and cyber-security in the context of content regulation and online censorship, it is crucial to maintain a delicate balance that upholds both national security interests and the fundamental rights of citizens.

E. Some Recommendations & Solutions:

Moving forward and addressing the challenges and controversies related to the right to the Internet in India requires a balanced approach that upholds fundamental rights, including freedom of expression and privacy, while also addressing security concerns and promoting cybersecurity. Here are recommendations and solutions:

- ❖ **Clear and Proportional Regulations:** There is need to develop clear and well-defined regulations for content moderation and online censorship. It is important to ensure that these regulations are

³³ *Shreya Singhal v. Union Of India*, AIR 2015 SC 1523.

³⁴ "Understanding India's New Intermediary Liability and Digital Media Ethics Code Rules," Internet Freedom Foundation, available at: <https://internetfreedom.in/understanding-indias-new-intermediary-liability-and-digital-media-ethics-code-rules> (last visited on November 28, 2025).

³⁵ "National Cyber Security Policy," Ministry of Electronics & Information Technology, Government of India, available at: <https://www.meity.gov.in/writereaddata/files> (last visited on November 28, 2025).

³⁶ *Shreya Singhal v. Union Of India*, AIR 2015 SC 1523.

³⁷ *Supra* note 35.

³⁸ *Justice K. S. Puttaswamy (Retd.) and Another v. Union of India and Others*, AIR 2017 SC 4161.

³⁹ "Cybersecurity in India," Observer Research Foundation, available at: <https://www.orfonline.org/research/cybersecurity-in-india-policy-challenges-69324> (last visited on November 28, 2025).

proportionate, transparent, and accountable, with mechanisms for oversight and redressal. Vague or overbroad provisions that can stifle free expression shall be avoided.⁴⁰

- ❖ **Challenges in the DPDP Act:** The Digital and Data Protection Act, 2023 have some challenges related to the right to internet in India. Some key concerns are; Government Overreach (the Act provides wide discretionary power to exempt any instrumentality of state from its application), Lack of Independent Oversight (as Data Protection Board is appointed and Controlled by Government), inadequate protection for offline data records, cross-border data transfer, consent fatigue etc. After improving these loopholes and with effective implementation of the DPDP Act will be helpful to protect individuals right to internet and privacy.
- ❖ **Enhance the Digital Literacy:** Promotion of the digital literacy and awareness programs to empower individuals with the skills needed to critically evaluate online content and protect themselves from misinformation. Empowered users are better equipped to distinguish between legitimate security concerns and potential abuses of censorship.⁴¹ Implementation of privacy-by-designing principles in all digital initiatives and policies is required. Ensure that data protection and privacy are integral to the development of digital infrastructure and services, aligning with the principles established in the Puttaswamy judgment.⁴²
- ❖ **Affordable Access:** Reduction in the cost of Internet access and data plans, particularly for marginalized communities is necessary. Subsidies, public-private partnerships, and other measures can help to bridge the affordability gap and improve access for all citizens.
- ❖ **Cyber-security Measures:** Continue to invest in and strengthen cyber-security measures to protect critical infrastructure and sensitive data. Collaboration with international organizations and experts to stay updated on emerging threats and best practices will be helpful. Engage in multi-stakeholder consultations involving government, civil society, tech companies, and academia to develop comprehensive and balanced policies that consider diverse perspectives and interests.
- ❖ **Education and Awareness:** It is need to promote digital citizenship education and awareness campaigns to educate citizens about their rights and responsibilities online, as well as the importance of cyber-security best practices.⁴³ Periodically review and revise existing regulations and policies to ensure their relevance and effectiveness in a rapidly evolving digital landscape. Flexibility and adaptability are key in addressing emerging challenges.

By implementing these recommendations, India can strike a delicate balance between protecting national security, upholding fundamental rights, and fostering a digital environment that promotes access, affordability, and cybersecurity for all citizens.

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