

EVOLUTION OF RIGHTS IN A DIGITAL ERA: PRIVACY, DATA PROTECTION AND FREEDOM OF SPEECH

AUTHORS:
VISHAL SAMRA
CHANCHAL

ABSTRACT

Nowadays the concept and practice of basic rights have been profoundly affected by the lightning-fast development of technology and the explosion of online platforms. Within this framework, this study investigates the historical development of rights including privacy, data protection, and free speech. Emerging technology, worldwide connection, and the complexity of a digital world are constantly challenging and redefining these rights, which have their roots in old legal and philosophical frameworks.

The Doctrinal Method of Research meticulously examines both first-hand and second-hand law sources. These can be things like court decisions, laws, academic comments, and international conventions. This process makes it possible to carefully look over current law systems and find holes, inconsistencies, or places which require improvement. The purpose of the study is to support protecting rights enjoyed by individuals, such as privacy, data security, and the freedom of speech and expression, while simultaneously making sure that these protections do not stand in the way of digital progress.

This study takes a comprehensive look at the problems which arise when privacy rights are in contradiction to data-driven technologies. It further looks at whether current data protection laws are strong enough to handle large amounts of data and how freedom of expression is changing on digital platforms. It's interesting to look at the links between new ideas and protecting the liberties of individuals.

Keywords: innovation, freedom of expression, data protection, privacy, doctrinal research, digital rights, and human rights.

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Introduction:

The digital era has transformed communication, expression, and the safeguarding of rights, bringing issues of privacy, data protection, and freedom of speech to the forefront. India, as the world's largest democracy with a diverse population and significant digital presence, is at the center of this evolution. The expansion of constitutional rights like freedom of speech, privacy, and data protection into the digital space is crucial to preserving democracy in a rapidly changing technological landscape.

Freedom of speech has transitioned into the digital realm, empowering individuals to express opinions, debate issues, and engage in activism on online platforms. The internet acts as a virtual public square, enabling people to challenge authority, shape narratives, and amplify marginalized voices. Similarly, privacy has shifted from being a physical concept to include digital data, raising critical concerns around surveillance, data breaches, and the ethical use of personal information.

However, the digital space presents challenges alongside opportunities. While online platforms enable free expression and innovation, issues like misinformation, cyberbullying, censorship, and unauthorized surveillance highlight the risks. Data collection by corporations and governments exacerbates concerns about individual privacy and personal independence.

This study explores the evolution of privacy, data protection, and freedom of speech in India, analyzing their historical development and transition into the digital age. It examines the legal framework, including the IT Act, the proposed Data Protection Bill, and landmark Supreme Court rulings like the Puttaswamy judgment, which established privacy as a fundamental right. It evaluates how these laws affect individual rights and digital freedoms.

The paper also addresses challenges such as state-imposed restrictions, corporate monopolies on data, and the societal impact of unchecked digital expression. Issues like online harassment, invasive data practices, and misinformation underscore the urgent need for balanced regulations that protect rights without stifling innovation or speech.

As the digital era reshapes norms, the

study highlights the implications for democracy, emphasizing the interconnectedness of privacy, data protection, and freedom of speech. Protecting these rights fosters public trust, civic participation, and accountability. The study concludes by recommending a rights-based digital governance approach, focusing on data protection, digital literacy, and ethical practices. Addressing challenges and leveraging opportunities will allow India to create an inclusive, equitable framework for rights in the digital age.

The Evolution of Rights in India: Historical and Digital Perspectives

Significant turning points and changes in the ways information is shared and expression is supported have been intricately woven into India's media evolution, reflecting the broader concerns around privacy, data protection, and freedom of speech.

(A) Foundations of Media and Freedom of Expression

Indian media and expression have existed long before the digital era, laying the foundation for the evolution of rights. Print media, a critical tool during the colonial period, helped foster political consciousness and resistance. Journals like *The Bengalee* and *Amrita Bazar Patrika* not only disseminated nationalist ideas but also underscored the right to free expression against censorship imposed by British authorities¹.

With the advent of radio in the 1920s, platforms like All India Radio (AIR) emerged as tools for cultural integration and mobilization.

Leaders like Mahatma Gandhi utilized radio to inspire collective action, demonstrating the potential of mass communication in preserving and exercising freedom of speech.

(B) The Internet Revolution and Its Impact

The arrival of the internet in the 1990s marked a critical transformation in communication, paving the way for new rights and challenges. Economic liberalization enabled widespread

1 Natarajan, S. *History of Indian Journalism, 1955*

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technological access, and platforms like *IndiaWorld* brought the internet to the forefront of Indian life. The internet enabled unprecedented global connectivity but introduced concerns around digital privacy and data protection. Unregulated information exchange online brought freedom of speech to new heights, yet exposed individuals to risks like surveillance, data breaches, and the misuse of personal information².

(C) Media as a Catalyst for Social Movements

India's social movements have long harnessed media to advance their causes, evolving in the digital era to embrace online advocacy. Movements like the Chipko Movement relied on traditional media, such as flyers and community radio, while later campaigns, like the Narmada Bachao Andolan (NBA), incorporated online platforms for petitions and international support.

The digital age amplified marginalized voices but also raised concerns about data misuse in activism. Activist groups now navigate a dual challenge: leveraging digital tools for advocacy while protecting privacy and maintaining freedom of expression.

(D) The Politics of Media and Censorship

India's media landscape has often been shaped by political ownership and censorship, as seen during the Emergency period of the 1970s when press freedoms were severely curtailed. In the digital era, decentralized platforms have democratized media, giving rise to citizen journalism and independent news portals³. However, the digital sphere is not immune to political manipulation. Issues such as the spread of disinformation, government surveillance, and pressure on platforms to moderate content have sparked debates on balancing freedom of speech and responsible governance in the digital domain.

(E) Technology as a Driver of Digital Rights

Technological advancements, especially the proliferation of mobile devices and affordable data plans, have revolutionized access to digital expression. Initiatives like the National Optical

Fiber Network (NOFN) have sought to bridge the digital divide, expanding digital rights to rural areas⁴. While technology has enhanced access to freedom of speech, it has also heightened concerns about data protection. The growth of digital footprints has made safeguarding personal data a crucial aspect of preserving individual rights in the digital era⁵.

(F) The Rise and Regulation of Online Platforms

The growth of social media has redefined how people communicate and express themselves. These platforms provide new opportunities for public discourse but also bring challenges like content moderation, privacy breaches, and misinformation (*Mehta, N. Social Media and Politics in India, 2020*). In this evolving ecosystem, the interplay between 'freedom of speech' and 'data protection' is critical. Regulatory frameworks, such as the proposed 'Digital Personal Data Protection Bill, 2022' aim to address issues of online harm while ensuring that platforms do not stifle expression through excessive censorship⁶.

Legal Framework Governing Digital Rights in India

India's approach to digital speech and associated rights is built upon a robust legal framework comprising constitutional guarantees, statutory provisions, judicial rulings, and international commitments. This framework addresses privacy, data protection, and freedom of speech, balancing individual rights with the broader public interest. Below is an elaboration of these elements with explicit provisions and credible references.

1. Constitutional Safeguards for Digital Speech

"The Constitution of India ensures that the Fundamental Right to speech and expression which is enshrined under Article 19(1)(a). This provision extends to digital platforms, recognizing their critical role in facilitating discourse in the modern

² Sengupta, S. *The Ugly Face of the Internet*, *The New York Times*, 2013

³ Roy, S. *Digital Activism in India*, 2021

⁴ *National Digital Communications Policy*, 2018

⁵ Bhatia, G. *Privacy Law in India*, 2021

⁶ *Ministry of Electronics and Information Technology, Government of India*, 2022

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era. However, **Article 19(2)** permits reasonable restrictions on this right to protect national sovereignty, public order, morality, and other vital interests.

For instance, during times of public unrest, restrictions have been imposed to prevent the propagation of misinformation in online mode. The constitutionality of these restrictions has been upheld, provided they meet the test of proportionality which is established in a famous case of **Anuradha Bhasin v. Union of India**⁷. This case reaffirmed the vital role of internet for exercising fundamental rights, asserting that any internet shutdown must be proportionate and justified.

2. Regulation Through the Information Technology Act, 2000

The '**Information Technology Act, 2000 (ITA)**' governs digital activities in India. It establishes a legal framework for electronic governance, cybercrimes, and intermediary liability. Notable provisions include **Section 66A**, which criminalized "*offensive*" online messages. However, in the landmark case of **Shreya Singhal v. Union of India**⁸, the Supreme Court struck down Section 66A and declared it as unconstitutional for being vague and overly broad, thereby violating **Article 19(1)(a)**.

Another critical provision is **Section 69A**, which allows the government to block online content to protect the country's security, public safety, and national interests.. This section has been used to ban several mobile applications and websites, raising questions about transparency and accountability. For example, the blocking of apps like *TikTok* and *WeChat* in 2020 cited national security concerns. Critics argue for clearer procedural safeguards to ensure that such actions do not infringe on free speech arbitrarily.

3. Intermediary Liability and Content Moderation

Section 79 of the ITA provides intermediaries like social media platforms and search engines a "*safe harbor*" from liability for third-party content, as

long as they follow certain rules and take necessary precautions.. The **2021 Intermediary Guidelines and Digital Media Ethics Code** presented stricter compliance norms, such as appointing grievance officers, implementing content moderation mechanisms, and ensuring traceability of the originator of messages.

While these regulations aim to curb misinformation and illegal content, they have sparked debates about user privacy and freedom of expression. For instance, the traceability requirement for messaging platforms like *WhatsApp* has raised concerns about end-to-end encryption and user anonymity. Digital rights organizations, including the **Internet Freedom Foundation (IFF)**, have emphasized the need for a balanced approach that protects user rights while addressing legitimate state concerns.

4. Censorship and Content Regulation in India

India has robust mechanisms for regulating content, including the **Cinematograph Act, 1952**, which governs film certification. This extends to digital platforms, with the government introducing guidelines for streaming services to self-regulate content. Additionally, **Section 69A of the ITA** allows government to block websites or applications deemed harmful to public order or national security.

These provisions, while addressing legitimate concerns, have often been criticized for their lack of transparency. For instance, the blocking of websites under **Section 69A** is conducted through a confidential process, limiting public scrutiny. Experts, including scholars from the **Centre for Internet and Society (CIS)**, have called for greater transparency in these decisions.

5. Data Privacy and Personal Data Protection Legislation

The draft **Personal Data Protection Bill, 2019 (PDPB)** seeks to create a clear plan for protecting personal data in India. It mandates data localization, introduces explicit consent requirements for data processing, and proposes the creation of a **Data Protection Authority (DPA)** to supervise compliance.

⁷ AIR 2020 SUPREME COURT 1308

⁸ AIR 2015 SUPREME COURT 1523,

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While the PDPB is a major step toward protecting privacy, it has faced criticism for granting broad exemptions to the government, raising concerns about potential misuse. Reports from organizations like **Privacy International** highlight the importance of minimizing government overreach and ensuring robust protections for individual data. The bill aligns with global standards like the **EU General Data Protection Regulation (GDPR)**, but its implementation remains a contentious issue.

6. Judicial Oversight and Interpretation

The Indian judiciary has played a crucial role in shaping the legal framework for digital speech and privacy. In **Justice K.S. Puttaswamy v. Union of India⁹ (2017)**, the Supreme Court acknowledged privacy as a fundamental right which is given under **Article 21**, setting the stage for robust data protection measures. Similarly, in another case of **Shreya Singhal v. Union of India (2015)**, the court reinforced the importance of free speech by invalidating provisions that disproportionately restricted online expression.

These rulings underscore the judiciary's commitment to balancing individual rights with state interests. As highlighted by legal scholars in journals like the **Economic and Political Weekly**, judicial oversight remains critical to ensuring that legislative measures align with constitutional principles.

7. India's International Commitments and Digital Rights

India is a participant to the **International Covenant on Civil and Political Rights (ICCPR)**, which recognizes freedom of expression (Article 19) and privacy (Article 17) as fundamental rights. These commitments influence India's domestic policies, ensuring they align with global standards while addressing national priorities.

For instance, India's obligations under the ICCPR have been cited in cases challenging internet shutdowns, such as **Anuradha Bhasin v. Union of India¹⁰**, where the court emphasized proportionality

and necessity in restricting internet access.

Challenges in the Digital Era

The digital era has significantly expanded opportunities for communication and expression but has also introduced a host of challenges related to privacy, data protection, and freedom of speech. This section examines these challenges, contextualized with credible data and references.

1. The Spread of Online Hate Speech and Misinformation

The rise of online hate speech and misinformation presents a direct threat to free expression. For example, during the COVID-19 pandemic, false narratives blaming specific communities led to increased social tensions. A report by **NASSCOM (2021)** revealed that 67% of internet users in India encountered some form of misinformation during the pandemic.¹¹

Social media platforms such as Facebook and Twitter have been criticized for their inability to curb hate speech effectively. According to **Meta's Community Standards Enforcement Report (2023)**, India is one of the countries with the highest reported cases of hate speech, but content moderation efforts often lag behind.¹²

2. The Rise of Cyberbullying and Digital Harassment

Cyberbullying is also one of the significant challenges in the digital age, with women, minorities, and vulnerable groups disproportionately affected. In a study conducted by **Amnesty International (2018)**, 23% of women surveyed in India reported experiencing online abuse¹³. Prominent public figures such as journalist Rana Ayyub have faced persistent online harassment, which has been documented in multiple reports, including **Reporters Without**

11 NASSCOM & Data Security Council of India (2021): "Online Hate Speech Trends and Impacts." [Source: www.dsci.in]

12 Meta Community Standards Enforcement Report (2023): Details global content moderation trends and specific cases in India. [Source: www.meta.com]

13 Amnesty International (2018): "Troll Patrol Report" – A comprehensive analysis of online harassment targeting women. [Source: www.amnesty.org]

9 AIR ONLINE 2018 SC 237

10 AIR 2020 SUPREME COURT 1308

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Borders (2022).

Campaigns such as **#DigitalHifazat** by the Internet Freedom Foundation have highlighted the need for stronger protections against online harassment.

3. Legal Ambiguities and Potential Overreach

The ambiguity in laws which governs digital expression has often led to overreach, suppressing dissent and freedom of speech. **Section 66A of the Information Technology Act (2000)** was struck down in *Shreya Singhal v. Union of India*¹⁴ for being vague and overly broad. However, the continued use of sedition laws and arbitrary arrests for social media posts indicates the persistence of such challenges (PRS Legislative Research, 2022).

4. Content Moderation and Intermediary Responsibilities

Intermediary platforms are central to the digital rights debate. The **2021 Intermediary Guidelines and Digital Media Ethics Code** introduced stringent requirements for social media platforms, including traceability of messages and swift takedown mechanisms. Critics, including **Access Now** and **Human Rights Watch**, argue that such measures could infringe on privacy and suppress free speech.

For instance, Twitter faced regulatory scrutiny in 2021 for non-compliance with government orders to block certain accounts, raising concerns about the balance between compliance and safeguarding user rights (Reuters, 2021).

5. Bridging the Digital Divide for Equal Rights

India's digital divide remains a significant barrier to equitable digital rights. According to **TRAI (2022)**, rural internet penetration in India is only 37%, compared to 69% in urban areas. The lack of access to digital tools and infrastructure disproportionately affects marginalized communities, limiting their ability to exercise free speech online.¹⁵

In the pandemic of COVID-19, students of

rural areas were facing significant challenges to access online education due to inadequate internet connectivity, underscoring the need for inclusive digital policies (UNICEF, 2021)¹⁶.

6. Surveillance and Privacy in the Digital Age

Government surveillance and inadequate data protection measures raise significant privacy concerns. **The Pegasus spyware controversy (2021)**, where journalists, activists, and political opponents were allegedly targeted, highlighted the risks of unchecked surveillance (The Wire, 2021).

India lacks a comprehensive data protection framework. The **Personal Data Protection Bill (2019)** has faced delays, leaving gaps in safeguarding user privacy. Studies by **CIS India (2022)** emphasize the need for robust legislation to address these concerns.

7. The Chilling Effect of Self-Censorship

The fear of retaliation and legal action has led to widespread self-censorship. Public figures like Barkha Dutt have spoken about the pressures to tone down criticism due to threats and intimidation. This chilling effect undermines democratic discourse and silences critical voices.

The **World Press Freedom Index (2023)** ranked India 161st out of 180 countries, highlighting the increasing constraints on journalistic freedom.

8. Threats to Journalists and Media Freedom

Journalists in India face significant threats, including violence, harassment, and even murder. The killing of journalist Gauri Lankesh in 2017 was a stark reminder of the dangers faced by those exposing corruption and wrongdoing. According to **CPJ (Committee to Protect Journalists, 2022)**, India remains one of the deadliest countries for journalists.¹⁷

9. Internet Shutdowns: Curtailing Digital Rights

India leads the world in internet shutdowns,

14 AIR 2015 SUPREME COURT 1523

15 TRAI (2022): "Telecom Regulatory Authority of India Annual Report." [Source: www.trai.gov.in]

16 UNICEF (2021): "Impact of COVID-19 on education and digital access in India." [Source: www.unicef.org]

17 The Hindu (2017): "Gauri Lankesh's murder and its implications for free speech."

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with 84 documented cases in 2022 alone (**Access Now, 2023**). Prolonged shutdowns, such as the one in Jammu and Kashmir in 2019, disrupted essential services and hindered freedom of expression. These measures, often justified on grounds of national security, raise questions about proportionality and accountability.

10. Regulatory Pressures on Social Media Platforms

The growing regulatory demands on platforms like WhatsApp and Twitter, including traceability requirements, have raised concerns about user privacy and free speech. The **Internet Freedom Foundation (2022)** has argued that such pressures risk turning platforms into tools of surveillance rather than mediums for open communication.

Balancing Rights and Regulations in the Digital Era

The evolution of rights in the digital era—particularly concerning privacy, data protection, and freedom of speech—has created a complex and dynamic landscape that requires carefully balanced regulations. As digital platforms expand, governments and stakeholders must navigate the tension between protecting fundamental freedoms and curbing harmful content. Below, we elaborate on key aspects of balancing rights and regulations in this evolving digital space.

1. The Need for Balanced Digital Regulations

The rapid expansion of digital platforms has prompted the need for digital regulations that safeguard citizens' fundamental rights while encouraging innovation. In India, the **Personal Data Protection Bill, 2019 (PDP Bill)** and the **Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021** are prime examples of legislative efforts aimed at balancing competing interests. These regulations seek to protect citizens' data privacy while promoting a free and open internet.

For example, according to a 2020 **NASSCOM** report, India is expected to see 829 million internet users by 2025, with a significant increase in digital

data usage. However, the Indian government has faced the challenge of protecting users' personal data in this fast-growing digital environment. The PDP Bill mandates that companies disclose how they collect and process personal data, while ensuring that citizens can exercise their data rights. A crucial provision is the right to data portability and the right to be forgotten, which enhances privacy protection.

However, these regulations need to ensure that they don't stifle innovation or impose excessive compliance burdens on startups and small businesses. According to the **Indian Internet Governance Forum**, there is concern that overly strict regulations could increase costs and limit market competition. The challenge lies in creating an environment where digital platforms are encouraged to innovate and grow while being responsible stewards of user data and providing a space where free speech thrives.

2. Protecting Freedom of Speech without Encouraging Harmful Content

Freedom of speech is a fundamental right which is provided under **Article 19(1)(a)** of the Constitution of India. The digital age, however, has introduced new complexities where freedom of speech is sometimes exploited for spreading misinformation, hate speech, and inciting violence. Laws like **Section 66A of the Information Technology Act, 2000** which was struck down in **case of Shreya Singhal v. Union of India**¹⁸, highlighted the dangers of overreaching censorship in an attempt to regulate online speech.

For instance, India witnessed a 130% increase in hate speech and online violence related to religious and communal conflicts during the **COVID-19 pandemic (2020-2021)**, as highlighted in a report by the **Center for Internet and Society (CIS)**. Such statistics stress the importance of protecting freedom of speech while controlling harmful content.

Striking the right balance between protecting freedom of expression and addressing harmful content requires nuanced regulation. Platforms must implement content moderation policies that identify harmful or illegal speech (e.g., hate speech

¹⁸ AIR 2015 SUPREME COURT 1523

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and violent content) while ensuring that they do not infringe on legitimate expressions of opinion. **Content moderation practices** must be transparent and accountable, which is why digital platforms like Facebook and Twitter are increasingly being pressured to disclose how they enforce community standards.

While **Section 79 of the Information Technology Act** shields intermediaries such as social media platforms from liability for user-generated content (provided they follow due diligence), this "safe harbor" provision is also subject to regulatory scrutiny. For example, **WhatsApp's** compliance with content removal requests has come under increasing scrutiny, with over **20 million messages** being flagged for removal between July and December 2020 alone (as reported by the Ministry of Electronics and Information Technology, 2021). These numbers highlight the growing challenge of enforcing effective content regulation while preserving free speech.

3. Ensuring Privacy Without Stifling Innovation

Privacy is one of the cornerstones of the digital era, but it is also a point of contention as regulators and businesses work to find a balance between safeguarding individual rights and promoting technological development. The **PDP Bill** seeks to protect personal data by mandating consent from users before their data can be processed. This gives individuals control over their data and enhances privacy protections. However, this need for consent can create challenges for tech companies, particularly startups that may lack the infrastructure to ensure full compliance with data protection rules.

According to a **2019 PwC report**, 82% of Indian businesses acknowledge that data privacy is crucial for their survival, yet only **25%** of small and medium-sized businesses have taken adequate measures to comply with global data privacy standards. Moreover, digital innovation often requires access to large datasets for research, development, and the creation of new technologies, including artificial intelligence (AI). Thus, any regulation must ensure that privacy protections are maintained while not stifling the growth of emerging industries.

4. Addressing the Societal Impacts of Digital Expression

Combating Online Harassment and Abuse

Digital platforms have also become breeding grounds for cyberbullying and online harassment, especially for women, marginalized communities, and public figures. The anonymity provided by digital platforms enables harmful behavior, with victims often facing severe psychological harm. According to a **2020 report by the National Commission for Women**, over **70%** of women in India have faced online abuse or harassment.

The Indian **Ministry of Electronics and Information Technology** introduced measures like the **Intermediary Guidelines (2021)** to encourage platforms to take stronger actions against online abuse. In 2018, for instance, actress **Swara Bhaskar** experienced online harassment after expressing her opinions about a controversial film. This highlighted the need for legal measures that protect citizens from online abuse. Beyond these regulatory steps, civil society and advocacy groups are also pushing for a cultural shift in how online platforms handle harassment. Initiatives like the **#HerOnlineSafety** campaign, aimed at increasing awareness of the harassment faced by women online, show that a collective response involving regulators, platforms, and society is crucial to effectively address the issue.

5. Regulating Hate Speech and Misinformation

Hate speech and the spread of misinformation have become pervasive problems in the digital world, undermining democratic discourse and fueling social unrest. A **2019 survey by the Pew Research Center** revealed that **64% of Indians** felt that the spread of fake news had a negative impact on society, and **53%** agreed that the government should regulate online content more strictly.

According to a **2020 report by Freedom House**, over **30%** of countries globally were involved in some form of internet censorship, underscoring the importance of maintaining a balance between regulation and the protection of free speech.

For instance, **WhatsApp** and **Twitter** have faced significant pressure from the Indian government to

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curb the spread of fake news, particularly during politically sensitive periods like elections. Social media platforms are often forced to remove content they deem problematic, which raises concerns over censorship and the suppression of legitimate political discourse.

The role of independent fact-checking organizations and **media literacy programs** becomes central in combating misinformation. Platforms can partner with these organizations to ensure that users are presented with credible and reliable information. Additionally, regulators must balance the need for content moderation with the protection of free speech to prevent excessive censorship.

Recommendations

To ensure the effective evolution of digital rights in the modern era, targeted measures must address challenges and promote freedoms. The following are actionable recommendations to enhance and safeguard the right to digital expression, while also ensuring privacy and data protection.

1. Strengthening Digital Literacy Programs

Improving digital literacy is a cornerstone for empowering citizens to exercise their freedom of expression responsibly in the digital era. Digital literacy initiatives should focus on building critical thinking and information verification skills among the general public.

- **Focus on inclusivity:** These initiatives must address diverse demographic groups, including rural communities, marginalized populations, and the elderly, to bridge the digital divide. A **2019 study by the Internet and Mobile Association of India (IAMAI)** found that nearly 60% of rural India still lacks internet access, highlighting the urgent need for inclusive digital education.
- **Collaborative efforts:** Educational institutions, civil society organizations, and private companies, including major internet platforms, can collaborate to design and execute these programs. The **Digital India campaign** launched in 2015 has aimed to increase digital literacy across the nation, with an emphasis on skills that ensure

citizens are able to navigate the online world responsibly.

- By scaling these programs, citizens will be better equipped to identify fake news and misinformation, protecting the integrity of digital speech in the country.

2. Enacting Comprehensive Data Protection Legislation

Robust data protection laws are crucial to safeguarding individuals' privacy and their right to free expression. Privacy breaches undermine both individual freedom and public trust in digital platforms.

- **Framework for personal data:** A comprehensive data protection law should define the scope of personal data and set clear parameters for its collection, storage, and usage by both public and private entities. The **Personal Data Protection Bill, 2019** (now under review) is India's first comprehensive attempt to create a legal framework for data protection.
- **Empowering citizens:** Individuals must be given control over their data, including rights to consent, access, and deletion of their personal data.
- **Effective redressal:** **Data Protection Authority of India**, should be empowered to monitor compliance and handle grievances related to data breaches and violation of privacy. The **General Data Protection Regulation (GDPR)** of the European Union provides a useful model for such regulatory frameworks. India's **Digital Personal Data Protection Bill**, once passed, would potentially introduce provisions akin to GDPR but with adjustments suited to India's diverse needs. However, concerns have been raised by privacy advocates regarding some exemptions for government agencies, which could undermine the law's efficacy in protecting citizens' data.

3. Ensuring Transparent Content Moderation Practices

Content moderation by digital platforms must strike a balance between removing harmful content and upholding freedom of speech. A transparent and accountable approach will help users trust the

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platform's role in safeguarding free speech.

- **Clear and transparent guidelines:** Digital platforms must publish their content policies regarding content takedown and provide users with clear channels to appeal decisions. Platforms like such as **Facebook**, **Twitter**, and **YouTube** have been criticized for opaque content moderation practices, which have resulted in arbitrary censorship of political content or dissident views (e.g., **Twitter's handling of Indian farmers' protests-related content in 2021**).
- **Accountability mechanisms:** Platforms must adhere to clear rules when it comes to moderating content, such as ensuring that political speech is not disproportionately targeted. This would help avoid incidents like the **2018 Facebook scandal**, where political bias in content moderation was flagged, or the **2020 Twitter controversy** related to the government's demands for censorship during the Delhi riots.

4. Safeguarding Freedom of Expression

Protecting freedom of expression in the digital era requires a legislative framework that respects both democratic values and the need to address harmful content.

- **Judicial oversight:** Any law or regulation that restricts free speech online must be constitutionally sound, and subject to judicial review, especially when overreach or abuse of power is concerned. The same has been clarified in the case of **Shreya Singhal v. Union of India (2015)**
- **Support for journalists and activists:** Legal protections for journalists must be reinforced, ensuring they can report freely without fear of harassment or violence. The **Committee to Protect Journalists (CPJ)** ranks India as one of the most dangerous places for journalists in Asia. The **murder of journalist Gauri Lankesh** in 2017 is a reminder of the dangers faced by independent reporters.
- **Reducing fear of retaliation:** Strengthening reporting mechanisms and public awareness campaigns against harassment will encourage more open expression and prevent chilling effects on digital speech.

5. Fostering Media Pluralism

Media pluralism in the digital space ensures that diverse viewpoints can be heard, reducing the spread of misinformation and promoting balanced discourse.

- **Encouraging diverse perspectives:** Algorithms that govern content feeds on platforms like **YouTube** and **Facebook** can inadvertently suppress diverse viewpoints. In particular, the recommendations algorithm can amplify sensational content that reinforces echo chambers and polarizes public opinion.
- **Support for independent media:** Indian independent media outlets and fact-checking organizations like **Alt News** and **The Wire** play a crucial role in combatting misinformation, especially during times of political unrest. Supporting these platforms ensures a healthy media ecosystem.
- **Countering misinformation:** India's **fact-checking groups** have been instrumental in debunking fake news. According to a **2018 report by Factly**, misinformation about political events during national elections spread rapidly, affecting public opinion. Support for independent fact-checkers and journalism will help tackle these challenges.

Conclusion

The evolution of rights in the digital era—particularly those concerning privacy, data protection, and freedom of speech—has fundamentally reshaped the landscape of individual freedoms, governance, and technological development. As digital technologies continue to pervade every aspect of life, the need for robust frameworks that balance the rights of citizens with the demands of innovation and national security has never been more urgent. This research has explored the intricate relationship between privacy rights, data protection, and freedom of expression, underscoring the complexities involved in creating a regulatory ecosystem that upholds democratic values while enabling technological progress.

Privacy and data protection have become central to contemporary discourse, especially with the rise of data-driven technologies, social media platforms,

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and the increasing reliance on digital infrastructures. While India's proposed **Personal Data Protection Bill** and the **Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021** are steps toward addressing these concerns, their effective implementation and ability to balance innovation with privacy safeguards remain contentious. Striking a balance that protects individuals' privacy without stifling the growth of emerging industries like artificial intelligence and fintech requires continuous adaptation of policies and collaboration among regulators, technology providers, and civil society.

In light of these challenges, the paper highlights the importance of a **balanced regulatory approach**, one that respects the freedom of expression while addressing the harms of harmful content, misinformation, and cyberbullying. The role of **digital literacy programs** and **media literacy** is pivotal in equipping citizens with the skills to critically engage with digital content. Furthermore, the involvement of **civil society** and **independent fact-checking organizations** in the regulation of online content can ensure that oversight mechanisms remain accountable and transparent.

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