

INTERNET FREEDOM IN INDIA: A STUDY OF CENSORSHIP AND REGULATION

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Abstract

This piece looks at how India's laws, censorship, and basic rights affect freedom of the internet. For free speech, access to knowledge, and social interaction, democracies need internet freedom. But in the past few years, the government's tightening control over online material has made people in India worry about their civil liberties. The first part of the paper talks about the past of internet laws in India, focussing on the Information Technology Act, 2000 and the changes that were made to it. The article talks about several topics, including Section 69A of the IT Act, which lets online material be limited, and others. It also looks at how filtering affects basic rights like freedom of speech, privacy, and access to information. The paper also talks about how arbitrary control could happen because of government overreach, lack of clarity, and unclear legal provisions. This piece talks about how China's internet rules are different from those in the US, EU, and other democracies. The results make it clear that we need a balanced system of rules that protects individual freedoms and takes into account the government's valid worries. To protect internet freedom in India, the study suggests making the internet more open, having courts keep an eye on it, and using foreign best practices.

Keywords: Internet Freedom, Censorship, Regulation, Fundamental Rights, Information Technology Act, Freedom of Speech, Privacy, Comparative Analysis, Judicial Oversight, Digital Rights

1. Introduction

Overview of Internet Freedom

"Internet freedom" means uncensored internet use. Without government surveillance, online speech is free, and information is accessible. To enlighten and engage citizens, democracies view internet freedom as an extension of free speech. The internet has changed communication, information transmission, and social interaction by facilitating idea exchange, public discourse, and various perspectives¹⁴²³. Forums for discussing national and international politics, social concerns, and

current events foster free expression. Cross-border broadcasting over the internet reduces geographical obstacles, promoting global information exchange. Involving under-represented groups in public discourse improves social inclusion. Due to its large internet user base and growing regulatory oversight of online material, India needs internet censorship and regulation research. World's largest democracy India must balance cultural sensitivity, public order, national security, and free expression¹⁴²⁴. Many fear national security or public morality from website filtering, content removal, and state-imposed internet

¹⁴²³ Subramanian R. Media and Internet Censorship in India: A Study of its History and Political-Economy. *Journal of International Technology and Information Management*. 2024;33(1):1-47.

¹⁴²⁴ Momen MN, Das D. Mediated democracy and internet shutdown in India. *Journal of Information, Communication and Ethics in Society*. 2021 Jun 4;19(2):222-35.

shutdowns. How much these initiatives infringe basic liberties is unclear. Indian law and government restrictions on online free expression are examined in this study. This study examines whether India has balanced national security, digital rights, and government control and free speech.

2 Historical Background of Internet Regulation in India

Evolution of Internet Laws

Indian internet development began in 1995 with public internet services. Internet access increased, therefore the Indian government needed regulations. The IT Act of 2000 (IT Act) was the first comprehensive law in the nation to include e-commerce, data protection, and online offences after scant internet regulation¹⁴²⁵. Indian public discourse and information transmission transformed in the early 2000s as online platforms got widespread. Social media, blogs, and video-sharing platforms have fuelled criminality, hate speech, and disinformation. This revolution necessitated new laws to manage the internet and protect free speech.

Key Legal Milestones

The IT Act, 2000 supported India's internet regulation. The law encompassed hacking, data theft, and illicit network access. Section 69A is particularly censored. This lets the government restrict information access for public order, national security, and sovereignty. This legislation allowed website and app bans¹⁴²⁶. Judicial interpretations and 2008 IT Act changes affect internet freedom. The 2015 Supreme Court case *Shreya Singhal v. Union of India* invalidated Section 66A of the IT Act, which restricted insulting online communication.

3. Legal Framework Governing Internet Censorship and Regulation in India

The Information Technology Act, 2000 (IT Act)

Indian internet regulation is governed by the IT Act, 2000. Internet business, cybercrime, and digital contracts spurred its passage. However, the IT Act authorises government censorship of online content. The 2008 Section 66A changes outlawed "offensive" email and social media. Many were imprisoned for racist or political online comments. The 2015 Supreme Court decision *Shreya Singhal v. Union of India* overturned Section 66A for violating Article 19(1)(a)'s free expression right¹⁴²⁷. The language was imprecise and broad, therefore the Court thought it may be misused. Indian authorities can limit web access for national security, defence, public order, or good relations with foreign governments under Section 69A. Government can ask social media and ISPs to restrict websites or content. The Supreme Court affirmed Section 69A in *Shreya Singhal* because it afforded enough procedural protections, unlike Section 66A. It overstepped with the 2020 Chinese app ban and TikTok ban.

The Role of the Indian Constitution

Article 19(1)(a) of the Indian Constitution guarantees free speech and expression. Free speech includes online access and public forums. The internet allows people to express themselves, discuss important topics, and vote, making it critical for this right. Article 19(2) enables the government to regulate free speech for public order, national security, morality, and other reasons, while Article 19(1)(a) protects it. India censors websites for public order and national security. The imprecise term "reasonable" has drawn criticism and court challenges.

Judicial Interpretations Balancing Free Speech and State Regulation

Balance between free expression and state control has been vital in court. To ensure online free speech, the Supreme Court underlined

¹⁴²⁵ Mehta SN, Amit-Danhi ER. The road to censorship: the case of digital audiovisual industries in India. *International Journal of Cultural Policy*. 2024 Sep 14:1-7.

¹⁴²⁶ *Shreya CV*. Censorship in a Democracy: An Understanding of the Role of Article 19 (1)(a) in Modern India. *Indian JLR & Legal Rsch.*. 2021;2:1.

¹⁴²⁷ Katira D, Grover G, Singh K, Bansal V. *CensorWatch: On the Implementation of Online Censorship in India. Free and Open Communications on the Internet*. 2023.

transparent and non-arbitrary censorship restrictions in Shreya Singhal¹⁴²⁸. The Supreme Court has often ruled that free expression restrictions were excessive, thus government control must be reasonable and required to protect rights.

Other Relevant Laws and Policies

The 2021 Information Technology Act regulated online news outlets and social media with the Intermediary Guidelines and Digital Media Ethics Code Rules. These policies require intermediaries to delete dangerous or unlawful content, tightening internet restrictions. Standards require intermediaries to address content complaints within 15 days. Some think the limits don't protect online speech enough and give the government too much influence over internet content¹⁴²⁹. The Digital Personal Data Protection Act, 2023 governs Indian data collection, processing, and storage. Despite its privacy focus, the Act might change internet regulation by empowering the government to prohibit data security websites or platforms. The measure increases government control over the internet, making censorship, information access, and privacy difficult to balance.

4. Censorship Mechanisms in India

Government-Imposed Censorship

The Indian government restricts web access in several ways to safeguard public morals, prevent disinformation, and maintain citizen safety. IT Act Section 69A is the major internet censorship weapon. The government can restrict access to particular materials or websites under certain conditions. In 2020, the government banned TikTok and other Chinese apps for national security. The authorities also want other social media networks to remove offensive messages. Indian Telegraph Act of 1885 allows government bans on politically

sensitive websites¹⁴³⁰. The Indian government has blocked internet access in Jammu and Kashmir for months over safety concerns. Many find these government filtering methods opaque and unsettling. Critics argue censorship orders are usually secret and hard to fight.

Private Sector and Platform Regulation

Internet content management depends on social media and ISPs as much as governments. The 2021 digital media ethics code and intermediary requirements compel intermediaries to erase illegally discovered information within a certain timeframe. Platforms should have user complaint officers. If platforms break these requirements, they risk losing "safe harbour" and being accountable for user-generated content. Facebook, Twitter, and WhatsApp removed Indian law-breaking and violent content upon request. These platforms must respect government orders, but over-censorship could compromise users' privacy and free speech.

Judicial Review and Challenges

The courts have rigorously scrutinised and challenged state censorship, especially where it infringes basic rights¹⁴³¹. The 2015 Supreme Court verdict in Shreya Singhal v. Union of India striking Section 66A of the IT Act for limiting free speech is important. Allowing arbitrary arrests for online speech violated Article 19(1)(a) of the Constitution, the Court ruled. The Court maintained Section 69A but required rigorous procedural protections. The judiciary must scrutinise censorship and internet shutdown orders for proportionality and legitimacy. Finally, India's state, private middlemen, and judiciary restrict the internet. Judges must verify that online content regulations like the IT Act and Intermediary Guidelines don't violate basic rights. Digital rights and national security are hard to balance in a changing internet.

5. Challenges in Internet Regulation

¹⁴²⁸ Chawla MG, Buch N. Regulation Of Web-Based Entertainment In India: Evaluating Self-Regulation Over Censorship As A Mechanism For Regulating Ott Platforms. Journal of Namibian Studies: History Politics Culture. 2023 Sep 15;36:134-55.

¹⁴²⁹ Kanojia S. Creative freedom and censorship: A comparative analysis of regulatory framework for OTT contents in the UK, India, and China. Journal of Liberty and International Affairs. 2023;9(3):265-80.

¹⁴³⁰ Abbas K. Navigating the Digital Maze: Freedom of Expression in India's Digital Democracy. Part 2 Indian J. Integrated Rsch. L.. 2023;3:1.

¹⁴³¹ Kumar A. Freedom of Speech in India and Outside: Internet's Unyielding Influence. Jus Corpus I.J. 2022;3:258.

India is worried about the government's ability to control the internet. People have asked why Section 69A of the IT Act gives the government so much power to block websites and apps. It has Chinese apps like TikTok on it. These actions, which are sometimes taken without a reason or in plain sight, make people question whether they are proportional to the danger. It is especially scary when the government goes too far and shuts down the opposition, limits political speech, or hides important public information¹⁴³². The problem is made worse by decisions that aren't clear, like shutting down the internet and removing information. The Telegraph Act of 1885, also known as the IT Act, makes a lot of censorship rules without a good reason or clear information. This lack of clarity makes it hard for platforms and people who are affected to fight censorship orders and calls into question the political duties of those in power. While PUBG and TikTok were banned, public debate and risk education were not taken into account. Because the IT Act isn't clear, Section 69A is implemented without any reason. "National security," "public order," and "friendly relations with foreign states" are all reasons why the government can ban anything they want¹⁴³³. When the law isn't clear, censorship can make it harder for people to speak out and get information. Some people disagree with the Intermediary Guidelines and Digital Media Ethics Code Rules, 2021, saying that they are not clear enough to control the content of middlemen. Many people are afraid that the government will use these rules to shut down political or dissenting speech because they give the government a lot of power to remove information.

6. Judicial Activism and Internet Freedom

Role of Courts in Protecting Internet Freedom

Internet freedom is protected by the Indian judiciary's repeated overturns of

unconstitutional censorship. The Indian judiciary has tried to balance privacy, free speech, and government interests in several landmark cases. Activist court rulings have shaped India's internet regulating policy, ensuring that its filtering laws are constitutional¹⁴³⁴.

The Shreya Singhal Case

The most notable judicial intervention in internet freedom is *Shreya Singhal v. Union of India* (2015). This lawsuit overturned Section 66A of the IT Act, which criminalised "offensive" internet communication. The clause was too unclear, hence the Court determined it violated Article 19(1)(a). Free speech groups celebrated the ruling because it reaffirmed the principle that the government cannot restrict free expression through unclear or arbitrary legislation¹⁴³⁵. *Shreya Singhal* upholds Section 69A but emphasises the necessity to follow its procedural safeguards to avoid wrongdoing. The Court's involvement in this case showed that judicial scrutiny is essential for fair, transparent, and constitutional internet law.

7. Comparative Analysis: Internet Regulation in Other Countries

The United States

Because of the First Amendment, which guards free speech, the US has a different view on how to regulate the internet. Because the US values free speech, it controls the internet with little help from the government¹⁴³⁶. The courts have often agreed with the idea that speech online should be protected the same way speech in real life is. There are rules about child pornography, cybersecurity, and stealing other people's work. Section 230 of the CDA protects online platforms from being sued for user-generated material. This is done to promote a free and open internet.

¹⁴³² Hussain S, Charan S. Content Regulation and Censorship of Online Curated Content Providers in India. Issue 2 Int'l JL Mgmt. & Human.. 2020;3:506.

¹⁴³³ Aamir M. Media Censorship after the Jammu and Kashmir Reorganization Act, 2019: A Case Study in Kashmir. Issue 3 Int'l JL Mgmt. & Human.. 2021;4:2890.

¹⁴³⁴ Sharma R. State Censorship, Self-Regulation, and the Politics of "Hurt" Sentiments in the Age of Digital Streaming: The Case of Sacred Games in India. The Projector. 2021;21(1):1-9.

¹⁴³⁵ Pathak C.C. Regulated Social Media in India: A Study of Media User Perception. MediaSpace: DME Media Journal of Communication. 2023 Aug 19;4(01):17-23.

¹⁴³⁶ Showkat A, Naqash R. Conceptual analysis of censorship in Kashmir media. The Rest: Journal of Politics and Development. 2023;13:P52-69.

European Union

The General Data Protection Regulation (GDPR) shows that the EU cares more about personal data and privacy. The General Data Protection Regulation (GDPR) has been a major influence on internet laws around the world since 2018. It limits the collection, keeping, and use of personal data¹⁴³⁷. Companies need to get permission from customers to use their data, and customers can see and delete their own data. Even though its main goal is to protect personal data, the Digital Services Act (DSA) helps the EU control what is posted online to stop terrorist messaging, false information, and hate speech. In order to balance people's rights with the safety of the state, the European Union (EU) stresses openness and responsibility in these laws.

China

China's internet scene, on the other hand, stands out because it is heavily controlled. China's "Great Firewall" and other forms of control and surveillance make it harder to access the internet. The Chinese government keeps an eye on what people do and reads material on Chinese-only platforms while blocking Google, Facebook, and Twitter. Chinese internet companies are required by the Cybersecurity Law of China and other laws to help the government watch for and remove content that people don't like. China cares more about state security and social order than individual freedoms. As a result, the internet is used to control information rather than free speech.

Lessons for India

India can learn from liberal and restrictive internet governance. The EU's GDPR-like privacy regulations and the US's free expression pledge may balance data privacy with internet freedom. India should not emulate China's autocratic state control. India should learn to ensure content limitation doesn't violate free

speech, make censorship decisions more transparent, and tighten data privacy laws like the Digital Personal Data Privacy Act, 2023¹⁴³⁸. India should set transparent standards for government monitoring and material removal while respecting court supervision to balance security and freedom.

8. Future of Internet Freedom in India: Trends and Recommendations

Emerging Trends

Rising government monitoring in India would limit internet freedom. Centralised databases, AI-driven data analysis, and facial recognition present privacy and free expression problems. The Digital Personal Data Protection Act, 2023 protected privacy but allowed significant government exemptions for national security surveillance. Unregulated usage of these technologies could limit India's internet. Other trends include more app and internet content policing. Section 69A of IT Act does this. Terrorist propaganda, hate speech, and fake news may prompt the government to outlaw political dissent online. An overregulated internet might destroy essential liberties without strong protections.

Recommendations

Limited transparency plagues censorship legislation. The government should disclose website blocking, internet shutdown orders, and other censorship. These choices may justify censorship under public and legal scrutiny. Courts should monitor censorship. An internet censorship tribunal can rule on material removal or blocking orders' legitimacy. More court oversight would prevent government overcensorship and ensure Article 19's fair restrictions (2). Clear legislation is needed for balanced internet control. To prevent arbitrary enforcement and clarify the IT Act and other unclear laws, the government should amend them. EU democracies have managed cybersecurity and disinformation while

¹⁴³⁷ Tripathi S. Cinema and Censorship in India: A Political Restriction on Freedom of Speech. U. Balt. J. Media L. & Ethics. 2021;9:64.

¹⁴³⁸ Gupta A. The Constitutional Basis for Internet Freedom. Acts of Media: Law and Media in Contemporary India. 2022;2022:98-106.

protecting citizens' privacy and expression. Replicate them, India. A business, legal, and civic society content moderation system might regulate dangerous content without limiting free speech.

10. Conclusion

Study evaluated Information Technology Act, Intermediary Guidelines, and Digital Personal Data Protection Act, 2023. Indian internet administration is under them. Research has examined censorship and free speech, privacy, and information. Many say government meddling, vague legislation, and imprecise policymaking make internet freedom difficult. India's internet management must combine security and freedom. Never compromise constitutional liberty for terrorism, disinformation, or cybercrime. Creating a regulatory framework that allows government while protecting individual liberty is tough. India needs new internet freedom policies that improve openness, accountability, and transparency. The administration should prioritise censorship reform. Regulation of content should be reasonable and targeted. Increase judicial oversight to prevent authority misuse. By embracing digital rights and adopting international best practices, India can develop a regulatory framework that promotes freedom and security, preserving the internet for democracy, innovation, and expression.

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