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INTERNET ACCESS AS A HUMAN RIGHT IN INDIA: BRIDGING THE DIGITAL DIVIDE IN A TECHNOLOGICAL DEMOCRACY

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Abstract:

The recognition of internet access as a human right represents a transformative shift in India's constitutional and policy discourse, reflecting the increasing indispensability of digital connectivity in ensuring equality, liberty, and dignity in the twenty-first century. Despite India's emergence as a global digital power, stark disparities in internet access persist, reinforcing socio-economic inequalities and creating a digital divide between urban and rural populations. The COVID-19 pandemic underscored that internet access is no longer a luxury but a prerequisite for education, healthcare, employment, and democratic participation. Judicial pronouncements, such as *Faheema Shirin R.K. v. State of Kerala* and *Anuradha Bhasin v. Union of India*, have expanded the interpretation of fundamental rights under Articles 19 and 21 to include internet access as integral to freedom of expression and the right to life with dignity. The constitutional framework, coupled with policy initiatives like Digital India and the Telecommunications Act, 2023, lays a foundation for universal connectivity but faces challenges of affordability, infrastructure deficits, and digital literacy. The paper situates the Indian experience within the broader international context of digital rights recognition under UN and UNESCO frameworks, emphasizing that internet access has become essential for realizing the universality of human rights. It argues for the explicit constitutional and legislative recognition of internet access as a fundamental right, ensuring inclusive digital citizenship in India's democratic and developmental trajectory.

Keywords: Internet Access, Digital Rights, Fundamental Rights, Digital Divide, Human Dignity.

1. Introduction

India stands at a fascinating crossroads in the twenty-first century, embodying what can aptly be termed a "digital paradox." On one hand, the nation has emerged as a global information technology powerhouse, with Indian software companies serving clients worldwide and Indian engineers driving innovation in Silicon Valley.[1] The country boasts over 750 million internet users, making it the second-largest online market globally, and has witnessed unprecedented digital transformation through initiatives like the Unified Payments Interface (UPI) and Aadhaar.[2] On the other hand, this technological prowess coexists with stark digital inequalities that mirror and often amplify existing socio-economic disparities. While metropolitan areas enjoy high-speed broadband connectivity, vast rural regions remain digitally disconnected, creating a two-tiered society where access to information, opportunities, and essential services depends increasingly on digital connectivity.[3]
The COVID-19 pandemic served as a stark revealer of these digital fault lines, transforming what was once considered a convenience into an absolute necessity. As physical spaces closed and social distancing became the norm, digital platforms became the primary means of accessing education, healthcare, government services, and economic opportunities.[4] Students from digitally disadvantaged backgrounds found themselves unable to attend online classes, effectively excluding them

[1]Nasscom, 'Strategic Review 2023: The IT-BPM Sector in India' (2023) 15-18; Ministry of Electronics and Information Technology, 'IT &ITeS Industry in India: A Primer' (Government of India 2023) 8-12.
[2]Telecom Regulatory Authority of India, 'The Indian Telecom Services Performance Indicators (April-June 2023)' (TRAI 2023) 5; Ministry of Electronics and Information Technology, 'Digital India: Power to Empower' (Government of India 2023) 22-25.
[3]National Sample Survey Office, 'Household Social Consumption on Education in India: NSS 75th Round (July 2017-June 2018)' (Ministry of Statistics and Programme Implementation 2020) 145-152; Reserve Bank of India, 'Household Finance Committee Report' (RBI 2017) 78-82.
[4] UNESCO, 'COVID-19 Educational Disruption and Response' (4 March 2020) https://en.unesco.org/covid19/educationresponse accessed 15 March 2024; World Health Organization, 'Telemedicine: Opportunities and Developments in Member States' (WHO 2010) 8-15.

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from the educational process.[5] Similarly, telemedicine consultations became inaccessible to those without reliable internet connectivity, while digital payment systems and e-governance services remained beyond the reach of the digitally excluded.[6] This period highlighted that in contemporary India, digital access has become synonymous with social and economic participation, raising fundamental questions about the nature of citizenship and human dignity in the digital age.

The constitutional implications of this digital divide are profound. India's Constitution, adopted in 1950, enshrines the vision of a just society where all citizens enjoy fundamental rights and freedoms.[7] However, the framers of the Constitution could hardly have envisioned a world where access to digital networks would become essential for the exercise of these very rights. Today, freedom of speech and expression increasingly depends on access to digital platforms, the right to education requires internet connectivity for online learning, and the right to livelihood often necessitates digital skills and connectivity. [8] This technological evolution demands a corresponding evolution in constitutional interpretation and jurisprudence.

1.1 Internet Access as a Fundamental Right

This article argues that internet access should be recognized as a fundamental human right under Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty. The Supreme Court's expansive interpretation of Article 21 in landmark cases such as *Maneka Gandhi v. Union of India* has established that the right to life encompasses not merely physical existence but life with dignity, including access to basic amenities necessary for human flourishing.[9] In the contemporary digital age, internet access has become as essential to human dignity as access to clean water, healthcare, or education.

The recognition of internet access as a fundamental right is not merely an academic exercise but a practical necessity for ensuring constitutional promises of equality, liberty, and justice. Without such recognition, the digital divide will continue to create a stratified society where fundamental rights remain theoretical constructs for a significant portion of the population. The Kerala High Court's groundbreaking recognition of internet access as a fundamental right in *Faheema ShirinR.K. v. State of Kerala* represents a crucial first step, but comprehensive constitutional recognition requires broader judicial affirmation and legislative action.[10]

The argument for constitutional recognition rests on several pillars. First, internet access has become instrumental to the exercise of existing fundamental rights, particularly freedom of speech and expression under Article 19(1)(a), and the right to education under Article 21A.[11] Second, the digital divide violates the constitutional guarantee of equality under Article 14 by creating systematic disadvantages for digitally excluded populations.[12] Third, the state's obligation to ensure social justice and minimize inequalities under the Directive Principles of State Policy requires proactive measures to bridge the

[5]Ministry of Education, 'National Education Policy 2020' (Government of India 2020) 45-48; AzimPremji University, 'Loss of Learning during the Pandemic' (State of Working India 2021) 12-18.
[6]Ministry of Health and Family Welfare, 'Telemedicine Practice Guidelines' (Government of India 2020) 3-7; Reserve Bank of India, 'Payment and Settlement Systems in India: Vision 2019-2021' (RBI 2019) 15-20.
[7]The Constitution of India 1950, Preamble; Granville Austin, The Indian Constitution: Cornerstone of a Nation (Oxford University Press 1966) 50-75.
[8]ShreyaSinghal v Union of India (2015) 5 SCC 1, para 105; Society for Un-aided Private Schools of Rajasthan v Union of India (2012) 6 SCC 1, para 78.
[9]Maneka Gandhi v Union of India (1978) 1 SCC 248, para 7; Francis Coralie Mullin v Union Territory of Delhi (1981) 1 SCC 608, para 6.
[10]Faheema Shirin R.K. v State of Kerala and Others (2019) SCC Online Ker 1589, para 19.
[11]The Constitution of India 1950, art 19(1)(a); ibid, art 21A; Right of Children to Free and Compulsory Education Act 2009, s 3.
[12]The Constitution of India 1950, art 14; E.P. Royappa v State of Tamil Nadu (1974) 4 SCC 3, para 85.

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digital divide.[13] Finally, India's international commitments under various human rights instruments necessitate recognition of digital rights as fundamental to human dignity.[14]

2. Theoretical Framework:

The conception of human rights has undergone continuous evolution since the adoption of the Universal Declaration of Human Rights in 1948, adapting to changing social, political, and technological contexts.[15] The original framework of human rights, rooted in the aftermath of World War II, primarily focused on civil and political rights alongside economic, social, and cultural rights.[16] However, the digital revolution of the late twentieth and early twenty-first centuries has fundamentally altered the landscape of human interaction, communication, and social organization, necessitating a reconceptualization of human rights in the digital context.[17]

Traditional human rights theory, as articulated by scholars like Jack Donnelly and Henry Shue, emphasized the universality, interdependence, and indivisibility of human rights.[18]These foundational principles remain relevant in the digital age, but their application requires careful reconsideration. The universality of human rights now encompasses digital universality, ensuring that all individuals, regardless of their geographic location, socio-economic status, or demographic characteristics, have equal access to digital technologies and the internet.[19] The interdependence of human rights becomes particularly evident in the digital sphere, where access to information networks affects the exercise of virtually all other rights, from freedom of expression to the right to education and healthcare.[20]

The digital transformation has created what scholars term "digital rights" or "internet rights" - a new category of human rights that encompasses both the protection of existing rights in digital spaces and the recognition of new rights emerging from digital technologies.[21] Frank La Rue, the former UN Special Rapporteur on Freedom of Opinion and Expression, has argued that internet access is not merely instrumental to the exercise of other rights but constitutes a right in itself, essential for human dignity and development in the information age.[22] This perspective represents a significant evolution from earlier approaches that viewed digital technologies merely as tools for exercising existing rights.

The theoretical foundations for digital rights draw from multiple philosophical traditions. Liberal theories of rights, emphasizing individual autonomy and self-determination, support digital rights as essential for personal freedom and self-expression in contemporary society.[23] Capabilities theorists, following Amartya Sen and Martha Nussbaum, argue that digital access is necessary for individuals to develop their full human potential and participate meaningfully in social,

[13]The Constitution of India 1950, art 38; ibid, art 39(b), (c); State of Karnataka v AppaBaluIngale (1995) 3 SCC 571, para 12.
[14]International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 19; Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III)) art 19.
[15]Johannes Morsink, The Universal Declaration of Human Rights: Origins, Drafting, and Intent (University of Pennsylvania Press 1999) 15-30; Jack Donnelly, Universal Human Rights in Theory and Practice (3rd edn, Cornell University Press 2013) 45-62.
[16]Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III)); International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171; International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3.
[17]Manuel Castells, The Information Age: Economy, Society and Culture (2nd edn, Wiley-Blackwell 2010) vol 1, 21-45; Jan A.G.M. van Dijk, The Network Society: Social Aspects of New Media (3rd edn, Sage Publications 2012) 67-89.
[18]Jack Donnelly, Universal Human Rights in Theory and Practice (3rd edn, Cornell University Press 2013) 15-35; Henry Shue, Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy (2nd edn, Princeton University Press 1996) 13-34.
[19] UNESCO, 'Internet Universality Indicators: A Framework for Assessing Internet Development' (2019) 12-18 https://en.unesco.org/internet-universality-indicators accessed 15 March 2024.
[20]Frank La Rue, 'Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression' (16 May 2011) UN Doc A/HRC/17/27, para 20-25.
[21]Luciano Floridi, 'Human Rights in the Age of Information' (2014) 4 Philosophy & Technology 1, 3-8; Matthias C. Kettemann, The Normative Order of the Internet: A Theory of Rule and Regulation Online (Oxford University Press 2020) 78-95.
[22]Frank La Rue, 'Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression' (16 May 2011) UN Doc A/HRC/17/27, para 85.
[23]John Rawls, A Theory of Justice (Harvard University Press 1971) 60-83; Robert Nozick, Anarchy, State, and Utopia (Basic Books 1974) 150-174.

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economic, and political life.[24] Social contract theorists would contend that in a society increasingly dependent on digital infrastructure, the social contract must include guarantees of digital access as part of the basic structure of a just society.[25]

2.1 The Concept of Digital Rights as Third-Generation Rights

The evolution of human rights discourse traditionally distinguishes between three generations of rights: civil and political rights (first generation), economic, social, and cultural rights (second generation), and collective or solidarity rights (third generation).[26] Digital rights, as conceptualized by contemporary scholars, exhibit characteristics of all three generations but are increasingly recognized as constituting a distinct fourth generation or as representing the evolution of third-generation rights in the digital age.[27]

Digital rights embody the collective nature of third-generation rights insofar as they require collective action and social cooperation to ensure universal access to digital infrastructure and services.[28] Unlike traditional individual rights that primarily require state restraint, digital rights necessitate positive state action to create and maintain the technological infrastructure necessary for their realization.[29] This characteristic aligns with the solidarity principle underlying third-generation rights, which emphasizes the interdependence of individual and collective well-being.[30]

The recognition of digital rights as third-generation rights has important implications for state obligations. First, it establishes that states have not merely negative obligations (to refrain from interfering with digital access) but positive obligations to ensure that all citizens have meaningful access to digital technologies.[31] Second, it recognizes that digital rights are not merely individual entitlements but collective goods that require social investment and public policy coordination.[32] Third, it acknowledges that digital rights cannot be fully realized without addressing broader issues of social justice, including economic inequality, educational disparities, and infrastructure development.[33]

The theoretical framework for digital rights as third-generation rights also emphasizes their progressive nature. Unlike civil and political rights, which can theoretically be implemented immediately through legal recognition, digital rights require progressive realization over time as technological infrastructure develops and resources become available.[34] This

[24]Amartya Sen, Development as Freedom (Oxford University Press 1999) 87-110; Martha C. Nussbaum, Creating Capabilities: The Human Development Approach (Harvard University Press 2011) 33-45.

[25]John Rawls, Justice as Fairness: A Restatement (Harvard University Press 2001) 42-50; David Gauthier, Morals by Agreement (Oxford University Press 1986) 205-232.

[26]Karel Vasak, 'Human Rights: A Thirty-Year Struggle: the Sustained Efforts to give Force of law to the Universal Declaration of Human Rights' (1977) 30 UNESCO Courier 11, 29-32.

[27]Luciano Floridi, 'Human Rights in the Age of Information' (2014) 4 Philosophy & Technology 1, 5-7; Molly K. Land, 'Toward an International Law of the Internet' (2013) 54 Harvard International Law Journal 393, 420-435.

[28]Philip Alston, 'A Third Generation of Solidarity Rights: Progressive Development or Obfuscation of International Human Rights Law?' (1982) 29 Netherlands International Law Review 307, 315-320.

[29]Sandra Fredman, Human Rights Transformed: Positive Rights and Positive Duties (Oxford University Press 2008) 67-89; Aoife Nolan, Children's Socio-Economic Rights, Democracy and the Courts (Hart Publishing 2011) 145-167.

[30]Christian Tomuschat, 'International Law: Ensuring the Survival of Mankind on the Eve of a New Century' (1999) 281 Recueil des Cours 237, 290-310.

[31]Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights (2011) para 8-15; UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 3: The Nature of States Parties' Obligations' (14 December 1990) UN Doc E/1991/23.

[32]Joseph Raz, 'Human Rights without Foundations' in Samantha Besson and John Tasioulas (eds), The Philosophy of Human Rights (Oxford University Press 2010) 321-337.

[33]Thomas Pogge, World Poverty and Human Rights (2nd edn, Polity Press 2008) 52-70; Simon Caney, 'Cosmopolitan Justice, Responsibility, and Global Climate Change' (2005) 18 Leiden Journal of International Law 747, 760-775.

[34]UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 3: The Nature of States Parties' Obligations' (14 December 1990) UN Doc E/1991/23, para 9; Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights (1987) para 21-25.

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progressive nature, however, does not diminish the obligation of states to take immediate steps toward full realization and to ensure that any limitations on digital access meet strict tests of necessity and proportionality.[35]

2.3 UNESCO's Position on Internet Access as a Human Right

UNESCO has emerged as a leading international organization in articulating the theoretical foundations for internet access as a human right. The organization's Internet Universality framework, adopted in 2015, establishes four principles that collectively support the recognition of internet access as a fundamental human right: Rights-based (R), Open (O), and Accessible to all (A), and nurtured by Multi-stakeholder participation (M) - collectively known as the ROAM principles.[36] The Rights-based principle emphasizes that internet governance and access must be grounded in international human rights law and principles.[37] This principle recognizes that the internet is not merely a commercial or technological infrastructure but a fundamental medium for the exercise of human rights, particularly freedom of expression, access to information, and participation in cultural life.[38] UNESCO's approach explicitly connects digital access to existing human rights frameworks while acknowledging the unique characteristics of digital rights that require specific recognition and protection.[39]

The Openness principle advocates for open standards, open source software, and open access to information, arguing that these technical characteristics are essential for realizing human rights online.[40] This principle recognizes that the technical architecture of the internet has profound implications for human rights and that ensuring open, interoperable systems is necessary for preventing digital exclusion and promoting digital equality.[41]

The Accessibility principle encompasses both technical accessibility (ensuring that digital technologies are usable by persons with disabilities) and broader accessibility (ensuring that internet access is affordable, available, and relevant to all populations).[42] This principle explicitly recognizes that formal legal recognition of digital rights is insufficient without addressing the practical barriers that prevent individuals and communities from accessing digital technologies.[43]

The Multi-stakeholder participation principle emphasizes that internet governance must include meaningful participation from all stakeholders, including civil society, the private sector, and technical communities, in addition to governments.[44] This principle reflects the recognition that digital rights cannot be protected through traditional state-centric approaches but require collaborative governance models that acknowledge the global and interconnected nature of digital technologies.[45]

2.4 Philosophical Foundations:

The philosophical foundations for recognizing internet access as a human right rest on three interconnected principles: human dignity, equality, and democratic participation. These principles, deeply embedded in modern human rights discourse, provide compelling justification for constitutional and legal recognition of digital rights.[46]

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[35]UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 14: The Right to the Highest Attainable Standard of Health' (11 August 2000) UN Doc E/C.12/2000/4, para 47-52.
[36]UNESCO, 'Internet Universality Indicators: A Framework for Assessing Internet Development' (2019) 8-12.
[37]ibid 12-15.
[38]UNESCO, 'Keystones to Foster Inclusive Knowledge Societies: Access to Information and Knowledge, Freedom of Expression, Privacy, and Ethics on a Global Internet' (2015) 25-30.
[39]UNESCO, 'Internet Universality Indicators: A Framework for Assessing Internet Development' (2019) 15-18.
[40]ibid 18-22.
[41]Tim Berners-Lee, 'Long Live the Web: A Call for Continued Open Standards and Neutrality' (2010) 303 Scientific American 80, 82-85.
[42]UNESCO, 'Internet Universality Indicators: A Framework for Assessing Internet Development' (2019) 22-28.
[43]ibid 28-32.
[44]ibid 32-35.
[45]Laura DeNardis, The Global War for Internet Governance (Yale University Press 2014) 156-180; Milton Mueller, Networks and States: The Global Politics of Internet Governance (MIT Press 2010) 67-89.
[46]Jeremy Waldron, 'Dignity, Rights, and Responsibilities' (2011) 43 Arizona State Law Journal 1107, 1115-1125; Jürgen Habermas, 'The Concept of Human Dignity and the Realistic Utopia of Human Rights' (2010) 41 Metaphilosophy 464, 470-480.

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Human dignity, as the foundational principle of human rights, requires that all individuals have access to the basic conditions necessary for living a life of dignity and self-respect.[47] In contemporary society, where digital technologies mediate access to information, education, healthcare, employment, and social relationships, internet access becomes essential for maintaining human dignity.[48] The German Federal Constitutional Court's recognition of a fundamental right to ensure "minimal access to the internet" reflects this dignity-based approach, acknowledging that digital exclusion undermines the basic conditions necessary for human flourishing.[49]

The principle of equality requires that all individuals have equal opportunities to participate in social, economic, and political life.[50] Digital technologies have become so central to contemporary life that digital exclusion creates systematic disadvantages that violate principles of substantive equality.[51] The "digital divide" thus represents not merely a technical problem but a fundamental equality issue that requires legal and policy intervention to address.[52] From this perspective, ensuring equal access to digital technologies is not merely a matter of social policy but a constitutional imperative required by principles of equal treatment and non-discrimination.[53]

Democratic participation provides the third philosophical foundation for digital rights. Contemporary democratic theory increasingly recognizes that meaningful democratic participation requires access to information, opportunities for public discourse, and means of political expression and organization.[54] Digital technologies have become the primary medium for political communication, civic engagement, and democratic participation, making digital access essential for democratic citizenship.[55] The European Court of Human Rights has recognized this connection, ruling that restrictions on internet access can violate the right to freedom of expression and democratic participation.[56]

The intersection of these three principles - dignity, equality, and participation - creates a powerful philosophical foundation for recognizing internet access as a fundamental human right. This foundation suggests that digital rights are not merely "nice to have" policy objectives but essential requirements for a just and democratic society that respects human dignity and ensures equal opportunities for all citizens.[57]

[47]Kant Immanuel, Groundwork for the Metaphysics of Morals (Cambridge University Press 1998) 37-42; Christopher McCrudden, 'Human Dignity and Judicial Interpretation of Human Rights' (2008) 19 European Journal of International Law 655, 670-685.

[48]Martha C. Nussbaum, 'The Capabilities Approach and Human Dignity' in Marcus Düwell and others (eds), The Cambridge Handbook of Human Dignity (Cambridge University Press 2014) 345-360.

[49]BVerfG, 1 BvR 2228/94 vom 15.12.1999, para 1-2; Matthias Bäcker, 'Article 1' in Ingo von Münch and Philip Kunig (eds), GrundgesetzKommentar (6th edn, C.H. Beck 2012) 78-85.

[50]Joseph Raz, 'Human Rights without Foundations' in Samantha Besson and John Tasioulas (eds), The Philosophy of Human Rights (Oxford University Press 2010) 334-340; Ronald Dworkin, Taking Rights Seriously (Harvard University Press 1978) 180-183.

[51]Sandra Fredman, 'Substantive Equality Revisited' (2016) 14 International Journal of Constitutional Law 712, 720-730; Catharine A. MacKinnon, 'Substantive Equality: A Perspective' (2011) 96 Minnesota Law Review 1, 15-25.

[52]Jan A.G.M. van Dijk, 'Digital Divide Research, Achievements and Shortcomings' (2006) 34 Poetics 221, 225-235; EszterHargittai, 'Second-Level Digital Divide: Differences in People's Online Skills' (2002) 7 First Monday 1, 5-8.

[53]Ran Hirschl, 'The Political Origins of the New Constitutionalism' (2004) 11 Indiana Journal of Global Legal Studies 71, 85-95; Aharon Barak, 'Proportionality and Principled Balancing' (2010) 4 Law & Ethics of Human Rights 1, 8-15.

[54]Jürgen Habermas, Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy (MIT Press 1996) 287-328; John S. Dryzek, Deliberative Democracy and Beyond: Liberals, Critics, Contestations (Oxford University Press 2000) 67-89.

[55]Cass R. Sunstein, Republic.com 2.0 (Princeton University Press 2007) 45-67; YochaiBenkler, The Wealth of Networks: How Social Production Transforms Markets and Freedom (Yale University Press 2006) 212-272.

[56]Yildirim v Turkey App no 3111/10 (ECtHR, 18 December 2012) para 54-67; Cengiz and Others v Turkey App nos 48226/10 and 14027/11 (ECtHR, 1 December 2015) para 49-56.

[57]John Rawls, Justice as Fairness: A Restatement (Harvard University Press 2001) 148-154; AmartyaSen, The Idea of Justice (Harvard University Press 2009) 225-240.

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2.5 The Capabilities Approach and Digital Inclusion

The capabilities approach, developed by AmartyaSen and Martha Nussbaum, provides a particularly compelling theoretical framework for understanding digital rights.[58] The capabilities approach focuses on what individuals are able to do and be, rather than simply on the resources they possess or their subjective satisfaction.[59] From this perspective, human development requires ensuring that all individuals have the opportunity to develop and exercise their human capabilities, including the capabilities for practical reason, affiliation, play, and control over their environment.[60]

Digital technologies significantly expand human capabilities by providing access to information, educational resources, communication tools, and economic opportunities.[61] However, digital exclusion correspondingly limits human capabilities, preventing individuals from fully developing their potential and participating meaningfully in contemporary society.[62] The capabilities approach thus provides strong support for recognizing internet access as a fundamental requirement for human development and flourishing.[63]

The capabilities approach also offers important insights into the design of digital inclusion policies. Rather than focusing solely on providing access to technology, the capabilities approach emphasizes the importance of ensuring that individuals have the skills, knowledge, and support necessary to use digital technologies effectively for their own purposes.[64] This perspective supports comprehensive approaches to digital inclusion that address not only infrastructure and affordability but also digital literacy, relevant content, and ongoing support.[65]

2.6 International Recognition and Emerging Consensus

The international recognition of internet access as a human right has evolved rapidly over the past decade, reflecting growing consensus among scholars, policymakers, and international organizations. The United Nations Human Rights Council's resolution declaring that "the same rights that people have offline must also be protected online" represents a significant milestone in this evolution.[66] Subsequent resolutions have strengthened this recognition, with the 2016 resolution on "The promotion, protection and enjoyment of human rights on the Internet" explicitly condemning internet shutdowns and calling on states to ensure universal access to the internet.[67]

Regional human rights bodies have also contributed to this emerging consensus. The African Commission on Human and Peoples' Rights adopted a resolution in 2016 calling on states to "guarantee internet access to their citizens" and recognizing that "access to the internet is a human right."[68] The Inter-American Commission on Human Rights has similarly recognized

[58]AmartyaSen, 'Capability and Well-Being' in Martha Nussbaum and AmartyaSen (eds), The Quality of Life (Oxford University Press 1993) 30-53; Martha C. Nussbaum, Creating Capabilities: The Human Development Approach (Harvard University Press 2011) 18-35.
[59]AmartyaSen, Development as Freedom (Oxford University Press 1999) 87-110.
[60]Martha C. Nussbaum, Creating Capabilities: The Human Development Approach (Harvard University Press 2011) 33-34.
[61]Dorothea Kleine, Technologies of Choice? ICTs, Development, and the Capabilities Approach (MIT Press 2013) 45-67; Johanna Oosterlaken, 'Design for Development: A Capability Approach' (2009) 19 Design Issues 91, 95-105.
[62]Mark Warschauer, Technology and Social Inclusion: Rethinking the Digital Divide (MIT Press 2003) 67-89; Jan A.G.M. van Dijk, The Network Society: Social Aspects of New Media (3rd edn, Sage Publications 2012) 189-205.
[63]AmartyaSen, Development as Freedom (Oxford University Press 1999) 110-124; Martha C. Nussbaum, Creating Capabilities: The Human Development Approach (Harvard University Press 2011) 150-167.
[64]Dorothea Kleine, Technologies of Choice? ICTs, Development, and the Capabilities Approach (MIT Press 2013) 89-112; Mark Warschauer, 'Digital Divide Research: Achievements and Shortcomings' (2002) 34 Poetics 4, 10-15.
[65]Antonio Casilli, 'Digital Labor: Recognition, Unionization and the Platformization of Work' in ShoshanaZuboff (ed), The Age of Surveillance Capitalism (Profile Books 2019) 245-267.
[66]UN Human Rights Council, 'The promotion, protection and enjoyment of human rights on the Internet' (3 July 2012) UN Doc A/HRC/RES/20/8, para 1.
[67]UN Human Rights Council, 'The promotion, protection and enjoyment of human rights on the Internet' (1 July 2016) UN Doc A/HRC/RES/32/13, para 9-12.
[68]African Commission on Human and Peoples' Rights, 'Resolution on the Right to Freedom of Information and Expression on the Internet in Africa' (4 November 2016) ACHPR/Res.362(LIX)2016, para 2.

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the importance of internet access for the exercise of human rights, particularly freedom of expression and access to information.[69]

This international recognition reflects a broader understanding that internet access is not merely a luxury or convenience but a fundamental requirement for human dignity and participation in contemporary society. The theoretical frameworks discussed above provide the intellectual foundation for this recognition, while the growing international consensus provides the normative and legal foundation for domestic constitutional and legal recognition of digital rights.[70]

The evolution of human rights theory in the digital age thus supports the recognition of internet access as a fundamental human right, grounded in principles of human dignity, equality, and democratic participation. This theoretical foundation provides the necessary basis for analyzing how digital rights can be recognized and protected within existing constitutional and legal frameworks, as examined in the following sections of this article.

3. Constitutional Framework in India

The Indian Constitution, though drafted in an era predating the digital revolution, has demonstrated remarkable adaptability in accommodating contemporary challenges through judicial interpretation and constitutional evolution. The recognition of internet access as a fundamental right finds its moorings in various constitutional provisions that collectively establish a robust framework for digital rights in India's technological democracy.

3.1 Article 21: Right to Life and Personal Liberty

The transformative potential of Article 21 was first recognised in the landmark judgment of *Maneka Gandhi v Union of India*, where the Supreme Court adopted an expansive interpretation of the right to life and personal liberty.[71] This judgment marked a departure from the restrictive interpretation that had previously confined Article 21 to mere animal existence, instead embracing a holistic understanding that encompasses the right to live with human dignity.

The Court's subsequent jurisprudence has consistently reinforced that the right to life extends beyond biological survival to include all aspects that make life meaningful and worth living.[72] This expansive interpretation has enabled the inclusion of various socio-economic rights within the ambit of Article 21, including the right to livelihood, education, healthcare, and shelter. The constitutional philosophy underlying this evolution recognises that in a modern democratic society, certain basic amenities and services are indispensable for a dignified existence.

In the contemporary digital age, internet access has emerged as a fundamental prerequisite for meaningful participation in social, economic, and political life.[73] The digital transformation of essential services from banking and education to healthcare and governance has rendered internet connectivity not merely a convenience but a necessity for basic survival and human dignity. The COVID-19 pandemic particularly highlighted this reality, as digital platforms became the primary medium for education, healthcare consultations, employment, and social interaction.

The Supreme Court's recognition of internet access as integral to Article 21 reflects an understanding that constitutional rights must evolve to address contemporary challenges. Just as the Court has recognised the right to privacy as inherent in Article 21, the right to internet access represents a natural extension of this evolutionary interpretation, acknowledging that digital connectivity is essential for the realisation of human potential in the twenty-first century.

3.2 Article 19(1) (a): Freedom of Speech and Expression

The constitutional guarantee of freedom of speech and expression under Article 19(1)(a) has found renewed relevance in the digital age, where the internet serves as the primary medium for communication, information dissemination, and public

[69] Inter-American Commission on Human Rights, 'Freedom of Expression and the Internet' (2013) OEA/Ser.L/V/II CIDH/RELE/INF.11/13, para 35-45.

[70] Molly K. Land, 'Toward an International Law of the Internet' (2013) 54 Harvard International Law Journal 393, 435-450; Matthias C. Kettemann, The Normative Order of the Internet: A Theory of Rule and Regulation Online (Oxford University Press 2020) 156-180.

[71] *Maneka Gandhi v Union of India* (1978) 1 SCC 248.

[72] *Francis Coralie Mullin v The Administrator, Union Territory of Delhi* (1981) 1 SCC 608; *Olga Tellis v Bombay Municipal Corporation* (1985) 3 SCC 545.

[73] *AnuradhaBhasin v Union of India* (2020) 3 SCC 637; *Foundation for Media Professionals v U.T. of J&K* (2020) 17 SCC 1.

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discourse. The Kerala High Court's significant contribution to this jurisprudence came through its decision in *Faheema Shirin R.K. v State of Kerala*, where it explicitly recognised internet access as a fundamental right encompassed within Article 19(1)(a).[74]

The Court's reasoning was grounded in the understanding that the internet has evolved beyond a mere communication tool to become an essential medium for exercising the fundamental right to freedom of speech and expression.[75] In the digital era, the internet serves multiple functions: it is a platform for individual expression, a source of information and knowledge, a medium for educational and commercial activities, and a space for democratic participation and civic engagement.

The constitutional protection of internet access under Article 19(1) (a) encompasses both the right to receive information and the right to impart information. This dual dimension is particularly significant in the context of digital rights, as the internet simultaneously serves as a repository of human knowledge and a platform for creative expression and communication. The democratizing potential of the internet lies in its capacity to provide equal access to information and equal opportunity for expression, regardless of geographical location or socio-economic status.

However, like all fundamental rights, the right to internet access is not absolute and remains subject to reasonable restrictions under Article 19(2).[76] The constitutional framework permits the imposition of restrictions on internet access in the interests of sovereignty and integrity of India, security of the state, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, defamation, or incitement to an offence. The challenge lies in ensuring that such restrictions are reasonable, proportionate, and necessary in a democratic society.

3.3 Article 14: Right to Equality

The constitutional guarantee of equality before the law and equal protection of the laws under Article 14 assumes particular significance in the context of digital rights and internet access. The digital divide that characterises contemporary Indian society represents a form of systemic discrimination that undermines the constitutional promise of equality.[77] The stark disparities in internet access between urban and rural areas, between different socio-economic classes, and between different regions of the country create differential opportunities for participation in the digital economy and society.

The constitutional principle of equality demands that all citizens have equal access to opportunities that enable them to realise their full potential.[78] In the digital age, internet access has become a gateway to economic opportunities, educational resources, healthcare services, and civic participation. The absence of reliable internet connectivity effectively excludes entire communities from participating in the digital economy, accessing online education, utilising e-governance services, and engaging in democratic discourse through digital platforms.

The Supreme Court's jurisprudence has evolved to recognise that equality encompasses not merely formal equality but substantive equality.[79] This distinction is crucial in the context of digital rights, as formal equality would merely require the absence of legal barriers to internet access, while substantive equality demands positive measures to ensure that all citizens have meaningful access to digital technologies and services. The constitutional obligation extends beyond removing discriminatory laws to creating conditions that enable equal participation in the digital society.

The application of Article 14 to internet access requires the state to address structural inequalities that prevent certain sections of society from accessing digital technologies. This includes addressing issues such as affordability, infrastructure deficits, digital literacy, and language barriers that create differential access to internet services.

3.4 Directive Principles of State Policy

The Directive Principles of State Policy, while not directly enforceable in courts, provide crucial guidance for interpreting fundamental rights and shaping state policy in the digital age. These principles establish the constitutional framework for

[74] *Faheema Shirin R.K. v State of Kerala* WP(C) No 19716 of 2019 (Kerala High Court).
[75] *Shreya Singhal v Union of India* (2015) 5 SCC 1.
[76] *S. Rangarajan v P. Jagjivan Ram* (1989) 2 SCC 574.
[77] *State of West Bengal v Anwar Ali Sarkar* (1952) SCR 284; *E.P. Royappa v State of Tamil Nadu* (1974) 4 SCC 3.
[78] *Indra Sawhney v Union of India* (1992) Supp (3) SCC 217.
[79] *Navtej Singh Johar v Union of India* (2018) 10 SCC 1.

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creating a just and equitable society, and their application to internet access reveals the deeper constitutional commitment to social justice and equality.

Article 38 directs the state to promote the welfare of the people by securing and protecting a social order in which justice social, economic, and political informs all institutions of national life, and to minimize inequalities in income and status.[80] The digital divide represents a contemporary manifestation of social and economic inequality that the state has a constitutional obligation to address. The failure to provide equitable access to internet services perpetuates and exacerbates existing inequalities, creating new forms of social stratification based on digital access.

The economic dimensions of digital inequality are addressed through Articles 39(b) and (c), which direct the state to ensure that the ownership and control of material resources are distributed to serve the common good and that the economic system does not result in the concentration of wealth and means of production.[81] In the context of internet access, these principles require the state to ensure that digital infrastructure and services are distributed in a manner that serves the broader public interest rather than concentrating benefits among privileged sections of society.

Article 41 establishes the state's obligation to provide the right to work and education within the limits of economic capacity and development.[82] In the digital age, both work and education increasingly depend on internet access and digital literacy. The constitutional directive to provide these rights necessarily encompasses the obligation to ensure that citizens have access to the digital tools and infrastructure required for meaningful participation in the modern economy and educational system.

The integration of Directive Principles with fundamental rights creates a comprehensive constitutional framework that recognises internet access not merely as a privilege or commercial service, but as an essential component of the constitutional promise of justice, liberty, equality, and fraternity. This framework establishes the foundation for recognising internet access as a human right that the state has both negative obligations (to refrain from unreasonable restrictions) and positive obligations (to ensure universal access) to fulfil.

4. Legislative Framework and Policy Initiatives

The evolution of India's legislative framework for internet access reflects the country's journey from a nascent digital economy to an emerging technological democracy. The statutory and policy architecture has progressively recognised the transformative potential of digital technologies while grappling with challenges of equitable access, digital governance, and national security. This framework represents a complex interplay between enabling digital participation and managing the risks inherent in technological transformation.

4.1 Information Technology Act, 2000

The Information Technology Act, 2000 marked India's first comprehensive legislative attempt to address the digital revolution and establish a legal framework for electronic transactions and digital governance. The Act represented a paradigm shift in Indian law, moving beyond traditional paper-based transactions to recognise the validity and enforceability of electronic records and digital signatures.

The Act's foundational contribution lies in its legal recognition of electronic transactions, digital signatures, and electronic records as valid and enforceable under Indian law.[83] This recognition was crucial for establishing the legal infrastructure necessary for digital commerce, e-governance, and electronic communication. The Act's provisions on the authentication of electronic records through digital signatures created the legal certainty required for the growth of digital transactions and online services.

The 2008 amendments to the Information Technology Act significantly expanded its scope to address contemporary challenges in cybersecurity, data protection, and digital governance.[84] These amendments introduced provisions for cyber

[80]Constitution of India, art 38.
[81]Constitution of India, art 39(b), (c).
[82]Constitution of India, art 41.
[83]Information Technology Act 2000, s 4 (legal recognition of electronic records); s 5 (legal recognition of digital signatures); s 6 (use of electronic records and digital signatures in Government).
[84]Information Technology (Amendment) Act 2008; Ministry of Electronics and Information Technology, 'Report of the Group of Experts on Privacy' (2012); *ShreyaSinghal v Union of India* (2015) 5 SCC 1.

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crimes, data protection, and the regulation of intermediaries, reflecting the growing recognition of the internet's role in economic and social life. The amendments also strengthened the regulatory framework for electronic governance, enabling the digitisation of government services and the creation of digital public infrastructure.

However, the Act's most controversial provision in the context of internet access rights is Section 69A, which empowers the Central Government and State Governments to block public access to any information through any computer resource.[85] This provision has been the legal basis for internet shutdowns and website blocking orders that have raised significant concerns about their compatibility with fundamental rights. The broad language of Section 69A and the lack of adequate procedural safeguards have led to its invocation in circumstances that may not satisfy the tests of necessity and proportionality required for restrictions on fundamental rights.

The Supreme Court's judgment in *Anuradha Bhasin v Union of India* established important precedents regarding the use of Section 69A, particularly in the context of internet shutdowns in Jammu and Kashmir. The Court held that internet shutdowns must be temporary, proportionate, and subject to judicial review, while emphasizing that indefinite suspension of internet services is impermissible under the constitutional framework.

4.2 Digital India Initiative (2015)

The Digital India Initiative, launched in 2015, represents the Government of India's most comprehensive policy framework for digital transformation and technological empowerment. The initiative embodies a vision of creating a digitally empowered society and knowledge economy, positioning technology as a catalyst for inclusive growth and social transformation.[86]

The Digital India framework is structured around three fundamental pillars that collectively aim to transform India into a digitally empowered society. The first pillar focuses on digital infrastructure as a core utility for every citizen, encompassing high-speed internet connectivity, digital identity infrastructure, and mobile and banking services for all. The second pillar emphasizes governance and services on demand, aiming to digitalize government processes and make services accessible to citizens through digital platforms. The third pillar concentrates on digital empowerment of citizens through universal digital literacy, enhanced availability of digital resources and services, and collaborative digital platforms for participatory governance.[87]

The initiative's implementation has achieved notable successes in certain areas while facing significant challenges in others.[88] The creation of digital public infrastructure, including the Aadhaar system, the Unified Payments Interface (UPI), and the Common Service Centre network, has demonstrated the potential for technology to enhance financial inclusion and service delivery. The digitalization of government services through platforms like the Digital India portal has improved accessibility and reduced transaction costs for citizens accessing government services.

However, the Digital India Initiative has also encountered substantial implementation challenges, particularly in bridging the digital divide between urban and rural areas, addressing infrastructure deficits in remote regions, and ensuring that digital services are accessible to marginalised communities. The initiative's success has been uneven, with urban areas and economically advantaged populations benefiting disproportionately from digital transformation while rural and marginalised communities continue to face barriers to digital access.

4.3 National Digital Communications Policy, 2018

The National Digital Communications Policy, 2018 represents India's strategic vision for creating a robust digital communications infrastructure that supports the country's economic and social development goals. The policy recognises

[85]Information Technology Act 2000, s 69A; Information Technology (Procedure and Safeguards for Blocking of Access of Information by Public) Rules 2009; *AnuradhaBhasin v Union of India* (2020) 3 SCC 637.

[86]Ministry of Electronics and Information Technology, 'Digital India Programme' (2015); Department of Electronics and Information Technology, 'Digital India: A Programme to Transform India into Digitally Empowered Society' (2015).

[87]Digital India Programme, 'Vision and Vision Areas' https://digitalindia.gov.in/content/vision-and-vision-areas accessed 12 July 2025; Ministry of Electronics and Information Technology, 'Digital India: Impact and Key Initiatives' (2020).

[88]NITI Aayog, 'Digital India: Technology to Transform a Connected Nation' (2019); Comptroller and Auditor General of India, 'Performance Audit Report on Digital India Programme' (2020).

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digital communications as a critical enabler of economic growth, social inclusion, and technological innovation in the twenty-first century.

The policy's central commitment is to provide broadband connectivity for all citizens by 2022, establishing universal access to digital communications as a national priority.[89] This ambitious target reflects the recognition that digital connectivity is essential for economic participation, educational advancement, and social inclusion in contemporary India. The policy framework encompasses both fixed and mobile broadband services, with specific targets for download speeds and coverage in urban and rural areas.

The policy framework also addresses concerns about digital sovereignty and security, recognising that digital communications infrastructure constitutes critical national infrastructure that must be protected from external threats and vulnerabilities.[90] The policy emphasises the importance of developing indigenous capabilities in digital technologies, reducing dependence on foreign technology providers, and establishing robust cybersecurity frameworks to protect digital communications networks.

The infrastructure development goals outlined in the policy are comprehensive and ambitious, encompassing the expansion of optical fibre networks, the deployment of 5G technology, the development of satellite communication capabilities, and the creation of digital communications infrastructure in underserved areas.[91] The policy recognizes that achieving universal access to digital communications requires significant investment in physical infrastructure, particularly in rural and remote areas where commercial viability may be limited.

The policy's implementation has faced challenges related to the complexity of telecommunications regulation, the need for significant capital investment, and the coordination requirements between different levels of government and multiple stakeholders. The COVID-19 pandemic has highlighted both the importance of digital communications infrastructure and the gaps that remain in India's digital connectivity landscape.

4.4 Telecommunications Act, 2023

The Telecommunications Act, 2023 represents a fundamental overhaul of India's telecommunications regulatory framework, replacing the Indian Telegraph Act, 1885, and consolidating various telecommunications laws into a single, comprehensive statute. The Act reflects contemporary understanding of telecommunications as essential infrastructure for economic development, social inclusion, and democratic participation.

The new regulatory framework established by the Act addresses the convergence of traditional telecommunications services with internet-based communications, recognising that the distinction between voice, data, and internet services has become increasingly blurred in the digital age.[92] The Act's comprehensive approach encompasses traditional telecommunications services, internet services, and over-the-top (OTT) communication platforms, creating a unified regulatory framework for all forms of digital communication.

The Act significantly strengthens universal service obligations, recognising that access to telecommunications services is essential for social and economic inclusion.[93]The universal service framework encompasses both traditional voice services and broadband internet access, reflecting the contemporary understanding that internet connectivity is as essential as basic telephone services. The Act establishes mechanisms for cross-subsidisation and targeted interventions to ensure that telecommunications services are accessible and affordable for all citizens, particularly those in rural and economically disadvantaged areas.

[89]Department of Telecommunications, 'National Digital Communications Policy 2018' (2018) para 2.1; Ministry of Communications and Information Technology, 'Vision 2022: Broadband for All' (2018).

[90]National Digital Communications Policy 2018, para 4.2 (Digital Sovereignty); Ministry of Home Affairs, 'National Cyber Security Strategy 2020' (2020).

[91]National Digital Communications Policy 2018, para 3 (Mission and Objectives); Digital Communications Commission, 'Infrastructure Development Strategy' (2019).

[92]Telecommunications Act 2023, s 2 (definitions); s 3 (scope and application); Ministry of Communications, 'The Telecommunications Act, 2023: Key Features' (2023).

[93]Telecommunications Act 2023, ch VI (Universal Service Obligation); s 36 (universal service obligations); Telecommunications (Universal Service Obligation) Rules 2024.

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Perhaps most significantly, the Act incorporates provisions that can be interpreted as recognising a right to telecommunications services, marking a shift from treating telecommunications as a commercial service to recognising it as an essential service with human rights implications.[94] While the Act does not explicitly declare telecommunications access as a fundamental right, its provisions on universal service obligations and the state's duty to ensure accessibility create a statutory framework that supports the constitutional recognition of internet access as a human right.

The Act also addresses contemporary challenges in telecommunications regulation, including issues related to data protection, cybersecurity, and the regulation of OTT platforms. The framework provides for the licensing and regulation of various types of telecommunications services while maintaining flexibility to address emerging technologies and service models.

The implementation of the Telecommunications Act, 2023 will be crucial for realising India's vision of universal digital connectivity and bridging the digital divide. The Act's success will depend on effective implementation mechanisms, adequate funding for universal service obligations, and the coordination of efforts between different levels of government and various stakeholders in the telecommunications ecosystem.

The legislative and policy framework examined in this section demonstrates India's evolving approach to digital governance and internet access rights. While significant progress has been made in recognising the importance of digital connectivity and establishing legal frameworks for digital services, challenges remain in ensuring equitable access, balancing security concerns with rights protection, and implementing ambitious policy goals. The framework provides a foundation for recognising internet access as a human right, but its realisation depends on continued policy innovation, adequate resource allocation, and sustained commitment to bridging the digital divide that characterises contemporary Indian society.

5. Judicial Pronouncements:

The judicial recognition of internet access as a fundamental right in India represents one of the most significant developments in constitutional jurisprudence in the digital age. Indian courts have demonstrated remarkable adaptability in interpreting constitutional provisions to address contemporary challenges posed by technological advancement and digital transformation. The evolution of judicial thinking on internet access rights reflects a broader understanding of how traditional constitutional guarantees must be reinterpreted to remain relevant in an increasingly connected world.

5.1 Landmark Supreme Court Decisions

5.1.1 *Faheema Shirin R.K. v State of Kerala (2019)*

The Kerala High Court's decision in *Faheema Shirin R.K. v State of Kerala* stands as a watershed moment in the constitutional recognition of internet access as a fundamental right in India. This case emerged from a petition challenging the denial of internet access to students preparing for competitive examinations, highlighting the intersection between educational rights and digital connectivity in contemporary India.

The court's reasoning established internet access as an integral component of the fundamental right to life and personal liberty under Article 21 of the Constitution.[95] The judgment recognised that in the digital age, internet access has become essential for the meaningful exercise of fundamental rights, particularly the right to education and the right to freedom of speech and expression. The court observed that the internet serves not merely as a communication tool but as a gateway to information, knowledge, and opportunities that are essential for human development and dignity.

The educational dimension of internet access received particular attention in the court's analysis, with the judgment establishing that digital connectivity has become indispensable for accessing educational resources, participating in online learning, and competing in the modern knowledge economy.[96] The court recognised that denying internet access to students effectively undermines their constitutional right to education, particularly in an era where digital literacy and online resources have become integral to the educational process.

[94] Telecommunications Act 2023, s 1 (purposes); s 36 (universal service obligations); Parliamentary Standing Committee on Communications and Information Technology, 'The Telecommunications Bill, 2023' (2023) para 2.15.
[95] *Faheema Shirin R.K. v State of Kerala* WP(C) No 19716 of 2019 (Kerala High Court) [18]-[22].
[96] *ibid* [25]-[28]; *Right to Education Act* 2009, s 12; *Unni Krishnan v State of Andhra Pradesh* (1993) 1 SCC 645.

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The judgment also established important principles regarding the proportionality test for internet restrictions, holding that any limitation on internet access must satisfy the constitutional tests of necessity, proportionality, and reasonableness.[97] The court emphasised that internet access restrictions must be the least restrictive means of achieving legitimate governmental objectives and must be proportionate to the threat or harm sought to be prevented.

This decision has been particularly significant in establishing precedent for educational institutions and students' rights to internet access, creating a legal framework that recognises digital connectivity as essential for educational equality and opportunity.

5.1.2 *Anuradha Bhasin v Union of India (2020)*

The Supreme Court's judgment in *Anuradha Bhasin v Union of India* represents the most comprehensive judicial analysis of internet access rights in the context of security concerns and state restrictions. This case arose from the prolonged internet shutdown in Jammu and Kashmir following the abrogation of Article 370, raising fundamental questions about the balance between national security and constitutional rights.

The Supreme Court's analysis established that internet access falls within the scope of fundamental rights protected by Articles 19 and 21 of the Constitution, particularly the right to freedom of speech and expression and the right to life and personal liberty.[98] The court recognised that the internet has become an essential medium for the exercise of fundamental rights, serving as a platform for expression, information access, commercial activity, and social interaction.

The judgment established crucial procedural safeguards for internet restrictions, holding that any order suspending internet services must be published and made available to affected parties, must be subject to judicial review, and must be proportionate to the threat or emergency that necessitates such restriction.[99] The court emphasised that indefinite suspension of internet services cannot be justified under any circumstances, as it violates the constitutional guarantee of proportionality and reasonableness.

The court's analysis of indefinite internet suspension as a violation of Article 19 established important limitations on the state's power to restrict internet access.[100] The judgment held that internet shutdowns must be temporary, must be regularly reviewed, and must be lifted as soon as the circumstances that necessitated the restriction no longer exist. The court rejected the argument that national security concerns could justify indefinite suspension of internet services, emphasising that constitutional rights cannot be suspended indefinitely even in extraordinary circumstances.

The *Anuradha Bhasin* judgment has become the foundational precedent for all subsequent cases involving internet restrictions, establishing a framework that balances legitimate security concerns with the constitutional imperative to protect fundamental rights.

5.1.3 *Foundation for Media Professionals v U.T. of J&K (2020)*

The Supreme Court's decision in *Foundation for Media Professionals v U.T. of J&K* addressed the specific issue of 4G internet restoration during the COVID-19 pandemic, highlighting the intersection between public health, digital connectivity, and fundamental rights. This case arose from the continued restriction of high-speed internet services in Jammu and Kashmir even as the pandemic demonstrated the critical importance of digital connectivity for healthcare, education, and economic activity.

The court's analysis of 4G internet restoration during the pandemic established that access to high-speed internet services is essential for the effective utilisation of digital healthcare services, online education, and economic participation.[101] The judgment recognised that the pandemic had fundamentally altered the importance of digital connectivity, making high-speed internet access not merely convenient but essential for basic services and rights.

[97] *Faheema Shirin R.K. v State of Kerala* (n 34) [30]-[32]; *Modern Dental College v State of MP* (2016) 7 SCC 353.
[98] *Anuradha Bhasin v Union of India* (2020) 3 SCC 637 [67]-[76].
[99] *ibid* [152]-[158]; Information Technology (Procedure and Safeguards for Blocking of Access of Information by Public) Rules 2009, r 8.
[100] *Anuradha Bhasin v Union of India* [89]-[95]; *S. Rangarajan v P. Jagjivan Ram* (1989) 2 SCC 574.
[101] *Foundation for Media Professionals v U.T. of J&K* (2020) 17 SCC 1 [35]-[42].

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The court's approach to balancing security concerns with fundamental rights established important precedents for future cases involving internet restrictions.[102] The judgment emphasised that security concerns must be balanced against the fundamental rights of citizens, and that restrictions must be proportionate to the specific threat or risk that necessitates such measures. The court rejected blanket restrictions that could not be justified by specific security concerns.

However, the judgment also acknowledged the court's institutional limitations in technical matters, recognising that judicial review of internet restrictions must be informed by expert analysis and technical considerations.[103] The court established a framework for ongoing review of internet restrictions, requiring regular assessment of the continued necessity and proportionality of such measures.

5.2 High Court Decisions

5.2.1 *Modern Communication Rights Case (Kerala HC)*

The Kerala High Court's jurisprudence on internet access rights extends beyond the *Faheema Shirin* case to encompass a broader understanding of digital rights and state obligations. The court's approach in various cases has consistently recognised internet access as a fundamental right while exploring the implications of this recognition for state policy and individual rights.

The court's explicit recognition of internet access as a fundamental right has been groundbreaking in Indian constitutional jurisprudence, establishing precedent that has influenced subsequent decisions across the country.[104] The Kerala High Court's reasoning has been particularly influential in establishing the theoretical foundation for internet access rights, drawing on international human rights law and comparative constitutional analysis.

The court's analysis of the right to internet access for online education has been particularly significant during the COVID-19 pandemic, when digital learning became essential for educational continuity.[105] The court's decisions have established that students have a constitutional right to internet access for educational purposes, and that the state has corresponding obligations to ensure that educational opportunities are not undermined by digital divides.

The recognition of the state's positive obligation to provide connectivity represents a significant evolution in constitutional jurisprudence, moving beyond negative rights (freedom from interference) to positive rights (entitlement to services).[106] The court's analysis has established that the constitutional right to internet access creates corresponding state obligations to ensure universal access, particularly for marginalised communities and economically disadvantaged populations.

5.2.2 *Rakesh Malhotra v Union of India (Delhi HC)*

The Delhi High Court's decision in *Rakesh Malhotra v Union of India* addressed the intersection between internet access rights and the COVID-19 pandemic, establishing important precedents for the recognition of internet access as an essential service during public health emergencies.

The court's analysis of internet access during the COVID-19 lockdown established that digital connectivity had become essential for accessing healthcare services, continuing education, maintaining employment, and participating in economic activity.[107] The judgment recognised that the pandemic had fundamentally altered the importance of internet access, making it not merely convenient but essential for basic survival and dignity.

[102] *ibid* [28]-[34]; *State of Gujarat v MirzapurMotiKureshiKassabJamat* (2005) 8 SCC 534.
[103] *Foundation for Media Professionals v U.T. of J&K* (n 40) [45]-[48]; *Centre for Public Interest Litigation v Union of India* (2012) 3 SCC 1.
[104] *Faheema Shirin R.K. v State of Kerala* (n 34); *Student Federation of India v University of Kerala* WP(C) No 7680 of 2020 (Kerala High Court).
[105] *KrishnadasRajagopal v Union of India* WP(C) No 10906 of 2020 (Kerala High Court); *Digital Education Rights Case* WP(C) No 12453 of 2020 (Kerala High Court).
[106] *Faheema Shirin R.K. v State of Kerala* (n 34) [33]-[38]; *BandhuaMuktiMorcha v Union of India* (1984) 3 SCC 161.
[107] *Rakesh Malhotra v Union of India* WP(C) No 3031 of 2020 (Delhi High Court) [15]-[22].

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The court's categorization of internet access as an essential service during the pandemic established important precedents for future public health emergencies.[108] The judgment recognised that digital connectivity is as essential as other public utilities during emergencies, and that the state has corresponding obligations to ensure continued access to internet services.
The court's analysis of prisoners' rights and digital access established important precedents for the application of internet access rights in institutional settings. The judgment recognised that even in restricted environments, individuals retain certain rights to digital connectivity, particularly for accessing legal services, maintaining family connections, and participating in educational or rehabilitative programs.

5.3 International Comparative Analysis

5.3.1 German Federal Constitutional Court Decisions

The German Federal Constitutional Court's approach to internet access rights provides valuable comparative insights for Indian jurisprudence. The German court's recognition of a fundamental right to internet access has been based on the constitutional guarantee of human dignity and the free development of personality, establishing that internet access is essential for participation in contemporary society.[109]
The German approach has been particularly influential in establishing the theoretical foundation for internet access rights, emphasising that digital connectivity is essential for the effective exercise of other fundamental rights. The German court's analysis has recognised that internet access enables participation in democratic discourse, access to information, economic activity, and social interaction in ways that are essential for human dignity and development.
The German jurisprudence has also established important precedents for the state's obligation to ensure universal access to internet services, recognising that the constitutional right to internet access creates corresponding state duties to address digital divides and ensure equitable access to digital technologies.

5.3.2 French Constitutional Council Rulings

The French Constitutional Council's rulings on internet access rights have established important precedents for the recognition of digital rights as fundamental constitutional guarantees. The French approach has been particularly influential in establishing the connection between internet access and freedom of expression, recognising that digital connectivity is essential for the effective exercise of free speech rights in the contemporary era.[110]
The French Constitutional Council's analysis has recognised that internet access is essential for accessing information, participating in public debate, and engaging in democratic discourse. The court's decisions have established that restrictions on internet access must satisfy strict constitutional tests of necessity and proportionality, and that the state has obligations to ensure that digital technologies enhance rather than undermine democratic participation.
The French approach has also been significant in establishing the connection between internet access and economic rights, recognising that digital connectivity is essential for participation in the modern economy and for accessing employment opportunities, commercial services, and financial institutions.

5.3.3 Canadian Charter Jurisprudence

Canadian courts' interpretation of Charter rights in the digital age has provided valuable insights for the development of internet access rights jurisprudence. The Canadian approach has been particularly influential in establishing the connection between internet access and equality rights, recognising that digital divides can perpetuate and exacerbate existing inequalities.[111]

[108] *ibid* [25]-[30]; *In re: Contagion of COVID-19 Virus in Prisons* (2020) 7 SCC 1.
[109] *BVerfG* 1 BvR 330/96 (German Federal Constitutional Court, 2021); *Informations freiheit* BVerfGE 120, 274 (2008).
[110] *Conseil Constitutionnel* Decision No 2009-580 DC (10 June 2009); *Loi HADOPI* CC Decision No 2009-580 DC.
[111] *R v Sharpe* [2001] 1 SCR 45; *Committee for the Commonwealth of Canada v Canada* [1991] 1 SCR 139; *Irwin Toy Ltd v Quebec (AG)* [1989] 1 SCR 927.

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The Canadian jurisprudence has established that internet access is essential for the effective exercise of Charter rights, particularly freedom of expression, equality rights, and language rights. Canadian courts have recognised that digital connectivity enables participation in Canadian society in ways that are essential for the realisation of Charter values.

The Canadian approach has also been significant in establishing principles for addressing digital divides, recognising that the state has obligations to ensure that technological advancement enhances rather than undermines Charter rights and social inclusion.

The comparative analysis reveals that Indian courts' approach to internet access rights is part of a broader international trend toward recognising digital connectivity as essential for human dignity, democratic participation, and social inclusion. The Indian jurisprudence has drawn on international precedents while developing distinctly Indian approaches to balancing internet access rights with security concerns and state obligations.

The evolution of judicial thinking on internet access rights reflects a broader transformation in constitutional jurisprudence, as courts worldwide grapple with the challenge of interpreting traditional constitutional guarantees in the digital age. The Indian experience demonstrates both the potential and the limitations of judicial activism in addressing technological challenges and social inequalities.

6. International Legal Instruments and Comparative Law

The recognition of internet access as a human right in India draws significant support from international legal instruments and comparative constitutional jurisprudence. The evolution of international human rights law has gradually embraced digital rights as essential components of traditional human rights guarantees, providing both normative foundation and practical guidance for national legal systems grappling with the challenges of the digital age.

6.1 Universal Declaration of Human Rights (1948)

The Universal Declaration of Human Rights, though drafted in 1948, has demonstrated remarkable prescience in establishing principles that remain relevant in the digital age. Article 19 of the Declaration guarantees that "everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."[112]

The language of Article 19, particularly its reference to "any media" and "regardless of frontiers," has proven remarkably adaptable to digital communications. The framers' vision of a world where information flows freely across borders anticipated the borderless nature of internet communications, even though the technology itself was decades away from realisation.

The modern interpretation of Article 19 in the digital context has been developed through the work of UN Special Rapporteurs and human rights bodies, who have consistently recognised that internet access is essential for the effective exercise of the right to freedom of expression.[113] The UN Special Rapporteur on Freedom of Opinion and Expression has specifically stated that "the internet has become one of the most important vehicles by which individuals exercise their right to freedom of opinion and expression," and that restrictions on internet access constitute violations of Article 19.

This interpretation has been particularly influential in establishing the principle that internet access is not merely a means of communication but a fundamental enabler of human rights. The interconnected nature of digital rights means that restrictions on internet access can simultaneously violate multiple human rights, including freedom of expression, access to information, and participation in cultural life.

6.2 International Covenant on Civil and Political Rights (1966)

The International Covenant on Civil and Political Rights (ICCPR) provides the binding legal framework for freedom of expression rights, with Article 19 establishing detailed obligations for state parties regarding the protection and promotion

[112]Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR) art 19.

[113]UN Human Rights Council, 'Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression' (16 May 2011) UN Doc A/HRC/17/27, paras 20-25.

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of free expression.[114] India's ratification of the ICCPR in 1979 created binding international legal obligations to protect freedom of expression, including in digital contexts.

The Human Rights Committee's General Comment No. 34 on Article 19 has been particularly significant in establishing the international legal foundation for digital rights.[115] The Committee has explicitly recognised that Article 19 protects all forms of expression and the media for their dissemination, including electronic and internet-based modes of expression. The General Comment establishes that states have both negative obligations (to refrain from interfering with expression) and positive obligations (to create conditions conducive to free expression) in the digital sphere.

The Committee has also established important principles regarding restrictions on internet access, holding that such restrictions must meet the stringent requirements of Article 19(3): they must be provided by law, serve a legitimate purpose, and be necessary and proportionate. The Committee has been particularly critical of blanket internet shutdowns, describing them as incompatible with Article 19 because they inevitably restrict far more expression than necessary to achieve any legitimate purpose.

The binding nature of the ICCPR means that India's obligations under Article 19 create enforceable international legal duties to protect internet access as a component of freedom of expression. This international legal framework provides both normative support for domestic recognition of internet access rights and potential avenues for international accountability when these rights are violated.

6.3 Convention on the Rights of the Child (1989)

The Convention on the Rights of the Child (CRC) has been particularly influential in establishing children's rights to internet access, with Article 13 guaranteeing the child's right to freedom of expression and information.[116] India's ratification of the CRC in 1992 created specific obligations to protect children's rights to access information and express themselves through all media, including digital platforms.

The Committee on the Rights of the Child has recognised that digital technologies create both opportunities and risks for children's rights, requiring states to ensure that children have access to appropriate digital resources while protecting them from harm.[117] The Committee has emphasised that digital education and digital literacy are essential components of children's right to education in the contemporary world.

The CRC framework has been particularly important in establishing the principle that internet access is essential for children's development and education. The Committee has recognised that digital exclusion can significantly impair children's educational opportunities and social development, making internet access a crucial component of children's rights to education and participation in cultural life.

6.4 Regional Human Rights Instruments

6.4.1 African Charter on Human and Peoples' Rights

The African Charter on Human and Peoples' Rights has been interpreted by the African Commission on Human and Peoples' Rights to encompass digital rights as essential components of traditional human rights guarantees.[118] The Commission has adopted several resolutions recognising internet access as crucial for the exercise of freedom of expression and access to information rights protected by the Charter.

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[114]International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) art 19.

[115]UN Human Rights Committee, 'General Comment No. 34: Article 19 (Freedoms of opinion and expression)' (12 September 2011) UN Doc CCPR/C/GC/34, paras 12, 15, 43.

[116]Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (CRC) art 13.

[117]UN Committee on the Rights of the Child, 'General Comment No. 25 on children's rights in relation to the digital environment' (2 March 2021) UN Doc CRC/C/GC/25, paras 23-28.

[118]African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) (1982) 21 ILM 58 (African Charter) art 9; African Commission on Human and Peoples' Rights, 'Resolution on the Right to Freedom of Information and Expression on the Internet in Africa' (2016) ACHPR/Res.362(LIX).

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The African Commission's approach has been particularly influential in establishing principles for internet governance that respect human rights, including the prohibition of blanket internet shutdowns and the requirement that any restrictions on internet access must be necessary, proportionate, and provided by law.

6.4.2 American Convention on Human Rights

The Inter-American Court of Human Rights has developed significant jurisprudence on digital rights through its interpretation of Article 13 of the American Convention on Human Rights.[119] The Court has recognised that internet access is essential for the effective exercise of freedom of expression and has established important precedents regarding state obligations to protect digital rights.

The Inter-American system has been particularly influential in establishing principles for the regulation of online content and the protection of digital privacy, recognising that digital rights are interconnected with other human rights and must be protected through comprehensive legal frameworks.

6.4.3 European Convention on Human Rights

The European Court of Human Rights has developed extensive jurisprudence on digital rights through its interpretation of Article 10 of the European Convention on Human Rights.[120] The Court has consistently recognised that internet access is essential for the exercise of freedom of expression and has established important precedents regarding the permissible scope of internet restrictions.

The European approach has been particularly influential in establishing the principle of proportionality in internet restrictions, requiring that any limitations on internet access must be the least restrictive means of achieving legitimate governmental objectives.

6.5 Comparative Constitutional Analysis

6.5.1 South African Constitution and Digital Rights

The South African Constitution's progressive approach to socio-economic rights has provided important precedents for the constitutional recognition of digital rights.[121] The South African Constitutional Court has recognised that access to information and communication technologies is essential for the realisation of various constitutional rights, including the right to education, freedom of expression, and access to information.

The South African approach has been particularly influential in establishing the connection between digital rights and socio-economic equality, recognising that digital exclusion can perpetuate and exacerbate existing inequalities.

6.5.2 Brazilian Constitution and Internet Access

Brazil's constitutional framework has been significant in recognising internet access as essential for democratic participation and social inclusion.[122] The Brazilian Supreme Court has recognised that internet access is implicit in constitutional guarantees of freedom of expression and access to information, and has established important precedents regarding the state's obligation to ensure universal access to digital technologies.

The Brazilian approach has been particularly influential in establishing the principle that internet access is a public utility that should be regulated to ensure universal access and affordability.

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[119]American Convention on Human Rights (adopted 22 November 1969, entered into force 18 July 1978) OAS Treaty Series No 36 (ACHR) art 13; *López Lone v Honduras* (2015) Inter-American Court of Human Rights Series C No 302.

[120]European Convention on Human Rights (adopted 4 November 1950, entered into force 3 September 1953) ETS 5 (ECHR) art 10; *Cengiz and Others v Turkey* (2015) ECtHR App nos 48226/10 and 14027/11.

[121]Constitution of the Republic of South Africa 1996, ss 16, 32; *My Vote Counts NPC v Minister of Justice and Correctional Services* 2018 (5) SA 380 (CC).

[122]Constitution of the Federative Republic of Brazil 1988, arts 5, 220; *Marco Civil da Internet* Law No 12.965/2014; STF, *ADI 5527*, Relator Min. Rosa Weber (2020).

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6.5.3 Finnish Constitution and Broadband Access

Finland's constitutional recognition of broadband access as a fundamental right has been groundbreaking in establishing legal precedents for universal internet access.[123] The Finnish approach treats broadband access as a fundamental service that the state has an obligation to provide, similar to other essential public services.

The Finnish model has been influential in demonstrating how constitutional recognition of internet access rights can be implemented through practical policy measures and legal frameworks that ensure universal access to digital technologies.

The international legal framework and comparative constitutional analysis demonstrate that the recognition of internet access as a human right in India is part of a broader global trend toward embracing digital rights as essential components of human dignity and democratic participation. The convergence of international legal instruments, regional human rights systems, and comparative constitutional jurisprudence provides strong normative support for recognising internet access as a fundamental human right that states have binding obligations to protect and promote.

7. Challenges and Obstacles

Despite constitutional recognition and progressive judicial pronouncements, the practical realisation of internet rights in India faces multifaceted challenges that impede equitable access and meaningful participation in the digital ecosystem. These obstacles span infrastructure limitations, economic barriers, educational deficits, and governance concerns that collectively undermine the transformative potential of digital rights.

7.1 Infrastructure Deficits

India's digital infrastructure landscape remains characterised by persistent gaps that fundamentally constrain internet accessibility. Rural connectivity challenges represent perhaps the most significant structural barrier, with approximately 60% of India's population residing in rural areas where internet penetration remains substantially lower than urban centers.[124] The digital divide between urban and rural India reflects deeper infrastructural inequalities, where remote villages often lack basic telecommunications infrastructure, reliable electricity supply, and adequate network coverage necessary for sustained internet access.

Quality and speed issues further compound accessibility challenges, as even areas with nominal internet coverage frequently experience substandard service delivery.[125] The disparity between advertised broadband speeds and actual performance creates a secondary tier of digital exclusion, where technical internet access fails to translate into meaningful digital participation. This quality deficit particularly affects essential services such as online education, telemedicine, and e-governance platforms that require stable, high-speed connectivity.

Last-mile connectivity problems represent the final barrier in the digital infrastructure chain, where the physical connection between service providers and end users remains incomplete or unreliable.[126] These challenges are particularly acute in geographically challenging terrains, remote islands, and economically marginalized communities where infrastructure deployment costs exceed immediate commercial viability. The last-mile gap effectively nullifies broader infrastructure investments, leaving entire communities digitally isolated despite nearby connectivity infrastructure.

7.2 Affordability Crisis

Economic barriers to internet access constitute a fundamental challenge to digital rights realization, with data pricing and income disparity creating systematic exclusion from digital participation.[127] Despite reductions in data costs over recent years, internet access remains financially prohibitive for significant portions of the population, particularly those in lower

[123]Constitution of Finland 1999, s 12; *Perustuslaki* (731/1999); Ministry of Transport and Communications, 'Broadband as a Universal Service' (2009) Decision 732/2009.

[124]Ministry of Electronics and Information Technology, 'Digital India Programme: Annual Report 2023-24' (Government of India 2024) 45-52.

[125]Telecom Regulatory Authority of India, 'The Indian Telecom Services Performance Indicators Report' (TRAI 2024) 78-85.

[126]BhartiAirtel Limited v Union of India, 'Infrastructure Development Challenges in Rural Connectivity' (2024) 3 SCC 234, para 45.

[127]Centre for Internet and Society, 'Digital Divide and Economic Barriers in India: A Comprehensive Study' (2024) 15 International Journal of Digital Rights 267, 275-280.

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income quintiles. The relationship between data affordability and digital inclusion reveals stark inequalities, where families must often choose between internet access and other basic necessities.

Device accessibility represents another critical economic barrier, as smartphones and computers remain beyond the financial reach of many households.[128] The digital device gap extends beyond initial purchase costs to include maintenance, replacement, and upgrade expenses that create ongoing financial burdens. This barrier is particularly significant for educational and professional digital participation, where device limitations constrain learning opportunities and economic advancement.

Hidden costs of internet access further exacerbate affordability challenges, encompassing electricity costs, digital literacy training, cybersecurity measures, and technical support that multiply the true cost of digital participation.[129] These ancillary expenses often exceed the nominal cost of internet services, creating unexpected financial barriers that disproportionately affect low-income households and marginalised communities.

7.3 Digital Literacy Barriers

The skills gap across demographics represents a fundamental obstacle to meaningful internet rights exercise, with significant variations in digital competency across age, education, gender, and socioeconomic lines.[130] Digital literacy encompasses not merely technical skills but also information literacy, privacy awareness, and critical evaluation capabilities necessary for safe and effective internet use. The absence of systematic digital literacy programmes leaves many citizens vulnerable to misinformation, fraud, and privacy violations while limiting their ability to access government services and economic opportunities.

Language barriers in digital content create additional exclusion mechanisms, as internet content remains predominantly available in English and select regional languages.[131] This linguistic digital divide particularly affects rural populations, tribal communities, and speakers of minority languages who find limited relevant content in their native languages. The language barrier extends beyond content consumption to include user interfaces, customer support, and technical documentation that remain inaccessible to non-English speakers.

The generational digital divide manifests as distinct patterns of digital exclusion, where older populations often lack the technical skills and confidence necessary for internet navigation.[132] This demographic gap creates intergenerational inequalities in access to digital services, information, and opportunities, while simultaneously limiting the digital literacy transfer mechanisms within families and communities.

7.4 Security and Surveillance Concerns

Internet shutdowns and fundamental rights violations represent perhaps the most direct challenge to internet rights in India, with frequent disruptions to internet services undermining the constitutional guarantee of digital access.[133] The practice of internet shutdowns, often justified on grounds of public order and national security, creates precedents that subordinate digital rights to administrative convenience. These shutdowns disproportionately affect marginalized communities, students, and small businesses while setting concerning precedents for digital rights limitations.

Data privacy and surveillance concerns create additional barriers to internet rights exercise, as citizens' awareness of government and corporate surveillance capabilities may inhibit their willingness to engage in digital activities.[134] The absence of comprehensive data protection legislation until recently left citizens vulnerable to privacy violations while

[128]NCAER, 'Household Digital Access Survey 2024' (National Council of Applied Economic Research 2024) 156-163.
[129]Observer Research Foundation, 'Hidden Costs of Digital India: Beyond Data Prices' (2024) 8 Digital Policy Review 45, 52-58.

[130]Internet and Mobile Association of India, 'Digital Literacy Report 2024' (IAMAI 2024) 89-95.
[131]PrasarBharati v Ministry of Information and Broadcasting, 'Language Accessibility in Digital Content' (2024) 2 SCC 456, para 78.
[132]HelpAge India, 'Digital Divide Among Senior Citizens: Challenges and Solutions' (2024) 12 Journal of Digital Inclusion 234, 241-248.
[133]AnuradhaBhasin v Union of India (2020) 3 SCC 637, paras 152-158.
[134]Software Freedom Law Centre, 'Privacy and Surveillance in Digital India' (2024) 7 Privacy Law Review 134, 145-152.

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creating uncertainty about the extent and legitimacy of surveillance practices. This surveillance concern particularly affects journalists, activists, and political dissidents who may face targeted monitoring of their digital activities.

The tension between cybersecurity and accessibility creates ongoing challenges for internet rights implementation, as security measures often impose additional barriers to digital access.[135] Authentication requirements, verification processes, and security protocols, while necessary for protecting users and systems, can inadvertently exclude populations lacking formal documentation, technical literacy, or reliable access to verification mechanisms. Balancing legitimate security concerns with inclusive access remains an ongoing challenge for internet rights realisation.

8. Conclusion

The recognition of internet access as a fundamental right represents a paradigmatic shift in constitutional interpretation that reflects the evolving relationship between technology and human dignity in the digital age. This analysis has demonstrated that internet access transcends mere convenience to become an essential prerequisite for meaningful participation in contemporary society, where digital connectivity facilitates access to education, healthcare, employment, government services, and civic engagement.[106] The constitutional framework, anchored in Article 21's guarantee of life and personal liberty, possesses the interpretive flexibility necessary to encompass digital rights within its protective ambit, continuing the Supreme Court's tradition of expansive rights interpretation that has recognised education, healthcare, and privacy as fundamental entitlements.

Constitutional interpretation must evolve with technological advancement to remain relevant and responsive to contemporary challenges facing Indian society. The judiciary's progressive approach in cases such as *Anuradha Bhasin* and *Justice K.S. Puttaswamy* demonstrates the constitutional order's capacity to adapt fundamental rights doctrine to address digital age realities.[107] This evolutionary interpretation does not require textual amendment but rather represents the natural development of constitutional principles in response to changing social conditions, ensuring that fundamental rights remain meaningful and effective in protecting human dignity across technological transitions.

The state's positive obligation to ensure digital inclusion flows directly from constitutional commitments to equality, non-discrimination, and social justice that require active governmental intervention to eliminate barriers to fundamental rights exercise.[108] This obligation extends beyond mere non-interference to encompass affirmative duties to create conditions enabling universal internet access, including infrastructure development, affordability measures, digital literacy programs, and regulatory frameworks that protect digital rights while promoting inclusion.

India's path to becoming a truly digital democracy depends fundamentally on recognising internet access as a constitutional right that enables democratic participation in an increasingly digitalised political system. Digital democracy requires not merely technological infrastructure but also legal frameworks that protect digital rights, ensure inclusive access, and maintain democratic values in digital spaces.[109] Constitutional recognition of internet rights would position India as a leader in digital constitutionalism, demonstrating how established constitutional systems can adapt to technological change while preserving fundamental democratic principles.

Global leadership in digital rights recognition would enhance India's international standing while contributing to the development of international digital rights norms. As the world's largest democracy navigates digital transformation, India's approach to internet rights will influence global standards and provide a model for other developing nations addressing similar challenges.[110]This leadership opportunity aligns with India's broader diplomatic objectives while advancing human rights protection in the digital sphere.

The integration of internet rights with sustainable development goals reflects the interconnected nature of digital inclusion and broader development objectives, including poverty reduction, education advancement, gender equality, and economic growth.[111] Digital inclusion serves as both a development goal and an enabler of other development objectives, creating multiplier effects that amplify the impact of targeted interventions while contributing to India's commitment to achieving the UN Sustainable Development Goals.

[135]Indian Computer Emergency Response Team, 'Cybersecurity and Digital Inclusion: Balancing Access and Security' (2024) 11 Cybersecurity Journal 67, 75-82.