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## From Magna Carta To Meta: The Role Of Constitutionalism In The Digital Era

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### ABSTRACT:

In today's digital world, a single tap can instantly transmit ideas across borders, transforming every individual into a global broadcaster. The constitutional spirit that originated with the Magna Carta aimed at restraining power faces new challenges in the online realm of Meta, X, and social feeds that continually update. While digital platforms have empowered billions to speak out, connect, and take action, they have also facilitated the spread of harmful content, misinformation, and privacy breaches. India's experience mirrors this global dilemma: **Article 19(1)(a) of the Indian Constitution** guarantees the right to free speech, yet historical lessons remind us, through **Article 19(2)**, that speech must have limits to protect individuals' dignity, public order, and societal diversity. Laws such as the **Information Technology Act, 2000**, and the **Digital Personal Data Protection Act, 2023**, help uphold these freedoms by removing harmful content and protecting privacy, while updated **criminal laws** impose consequences for serious digital offences.

This paper examines the fragile balance between freedom and responsibility within India's digital environment. It asserts that for democracy to succeed in the age of social media, laws must evolve alongside technology. Genuine freedom is not unlimited speech but expression guided by constitutional values and modern realities. By learning from history and implementing thoughtful regulation, society can foster digital conversations that unite rather than divide, ensuring personal rights are protected amid the chaos of online discourse.

**Keywords:** Freedom of Speech, Constitutionalism, Indian Constitution, Digital Regulation, IT Act, Data Protection, Online Restrictions, Democracy, Privacy.

### INTRODUCTION

From the signing of the Magna Carta in 1215 to today's digital platforms shaping our lives, constitutionalism is the story of humanity's quest for fairness and freedom.<sup>1</sup> What started as a bold stand against the unchecked royal power has evolved into a global commitment to protect individual rights and dignity even in an era dominated by algorithms and data.<sup>2</sup> The same spirit that once demanded "liberty

<sup>1</sup>J. C. Holt, Magna Carta (2d ed. Cambridge Univ. Press 1992).

<sup>2</sup>A. V. Dicey, Introduction to the Study of the Law of the Constitution (Macmillan 1915).

under law” now challenges us to see how those principles can survive in a world where information travels faster than legislation can keep up.

In India, this issue feels especially urgent. The Constitution remains our vital shield as we become one of the world’s most connected nations. It keeps us anchored amid rapid technological change, reminding us that progress should never threaten our fundamental freedoms. The right to speak, question, and express ourselves enshrined in **Article 19(1)(a)**<sup>3</sup> is central to democracy. It prevents abuse of power, encourages creativity, and ensures every voice matters.

However, this right faces new challenges in today’s digital era. Social media platforms shape our views; online spaces often blur the lines between public discourse and private control. The ideal of free expression is increasingly mediated through unseen moderation, misinformation, and surveillance systems.<sup>4</sup>

The journey from Magna Carta to Meta isn’t just about legal changes it’s about safeguarding core human values in the age of technology. As our lives and communication evolve with technology, our challenge is to uphold the ideals of freedom, equality, and accountability in this digital age.

## **HISTORICAL FOUNDATIONS**

One of the most important moments in history is the signing of the Magna Carta in 1215, which is where constitutionalism got its start. Magna Carta was a revolutionary challenge to absolute rule during a time when Kings had almost restricted power. It forced the king of England to acknowledge that a ruler is subject to the law and has an obligation to uphold the rights of his subjects. Principles like the right to fair trial and protection from wrongful incarceration were recognised for the first time<sup>5</sup>. The strong notion that liberty and justice ought to govern both citizens and rulers was first presented in this document, and it has shaped the constitutional thought ever since.

The Magna Carta had an impact that went well beyond medieval England. The establishment of constitutional governments around the world was prompted by the gradual dissemination of its core ideas. These legal traditions were introduced into colonial administration by European nations as they grew their empires, establishing concepts of rights and authority constraints. In the face of colonial operation, these concepts provided colonised people with a source of contradiction as well as hope for more equitable governance. Despite this, the desire for constitutionalism persisted, propelling legal reforms and independence movements worldwide. The enduring power of constitutionalism is its flexibility, which allows it to function as a framework that upholds human dignity and accountability in any setting or era.

After gaining independence in 1947, India had the daunting task of creating a constitutional framework that would reflect its diverse population and democratic ideals. The founders of India were influenced by constitutional models around the world and sought to create a living constitution that upheld social welfare and individual liberties. Protected by article 19(1)(a), the right to freedom of speech and expression emerged as a vital democratic safeguard. Nonetheless, this right was counterbalanced by a clause, allowing for appropriate limitations, acknowledging the need to preserve public safety, order and unity in a multicultural and dynamic country. As a trail-blazing illustration of how the timeless principles of justice and liberty can be carefully modified to fit the needs of a contemporary, liberal democracy.

Since freedom of expression must negotiate a new technological environment. In the digital age, this delicate balance is still crucial as India faces its challenges. From the Magna Carta’s historic foundation to the intricate Indian constitution today, constitutionalism development reflects humanity’s unwavering dedication to defending rights, limiting powers, and promoting democratic participation in ever-evolving situations<sup>6</sup>.

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<sup>3</sup>India Const. art. 19, cl. 1(a).

<sup>4</sup>Pranesh Prakash, Free Speech in the Age of Social Media, Seminar, No. 738, Feb. 2021.

<sup>5</sup>British Council, Magna Carta: My Digital Rights (British Council 2025).

<sup>6</sup>Digital Constitutionalism: The Role of Internet Bills of Rights (OAPEN Library 2025).

## CONSTITUTIONAL GUARANTEES

At the heart of India's democracy is the right to freedom of speech and expression, guaranteed by Article 19(1)(a). This right allows people to share their thoughts, challenge ideas, and engage in open conversation a vital part of any healthy society. But this freedom isn't unlimited. Article 19(2)<sup>7</sup> steps in to place reasonable restrictions, making sure that speech does not threaten the country's security, public order, or moral fabric. It's a way to balance the individual's voice with the well-being of the community.

What helps give deeper meaning to these protections is Article 21, which guarantees the right to life and personal dignity<sup>3</sup>. Courts in India have recognised that freedom of expression isn't just about speaking freely; it's also about respecting human dignity for oneself and others. So, speech that harms a person's dignity, like hateful or defamatory language, can be restricted without damaging the core of free expression itself.

Together, these provisions create a thoughtful balance: they protect the powerful right to express oneself while also ensuring that such expression respects the rights and dignity of others and maintains public peace. In today's digital age, this balance has become more important than ever, as new technologies constantly challenge where the line should be drawn between free speech and responsible communication. The Constitution guides us in finding that middle ground, so that freedom remains vibrant, meaningful, and respectful of all citizens.

## THE VERDICTS: A NEW CONSTITUTIONAL LEGACY

### **1. Wazahat Khan v. Union of India (2025)**

This case involved multiple FIRs registered against Wazahat Khan across several states for allegedly inflammatory and communal posts on social media platforms. The Supreme Court noted the growing misuse of free speech powers leading to an overload of litigation and court backlogs. The Court emphasised that while freedom of speech is fundamental, it carries with it the responsibility to exercise restraint, especially in a sensitive, diverse society like India. The justices remarked that hateful or derogatory speech even on social media is not protected under Article 19(1)(a) and flagged concerns about incitement to violence and religious disharmony. Khan had initially filed complaints against others for hate speech but himself faced cases for inflammatory comments. The Court issued interim protection from arrest outside West Bengal while directing the consolidation of FIRs for efficiency and noted that online speech, once made, cannot be "taken down" or erased in effect. The judgment highlighted the need for balance between protecting free expression and preventing hate speech or violence incitement<sup>8</sup>.

### **1. Cure SMA Foundation v. Samay Raina and Others (2025)**

The Court addressed the issue of insensitive jokes made by comedian Samay Raina and other social media influencers about persons with disabilities, including those suffering from Spinal Muscular Atrophy and blindness. The Court made it clear that while freedom of speech under Article 19(1)(a) is a fundamental right, it is not unlimited and must be balanced against the right to dignity under Article 21. The Bench criticised the influencers for making remarks that mocked vulnerable communities, emphasising that such commercialised speech cannot be excused as free expression when it harms the dignity and sentiments of marginalised groups. The Court directed all involved to issue unconditional public apologies on their social media platforms and podcasts, stressing that the apology's sincerity should surpass the degree of offence caused. Further, the Court called on the government to create comprehensive guidelines regulating online content to prevent similar offences while maintaining free speech protections. This landmark judgment highlights how constitutional values evolve to protect dignity and social harmony in the digital age, requiring individuals and influencers to wield their freedoms responsibly and respectfully<sup>9</sup>.

<sup>7</sup>India Const. art. 19, cl. 2

<sup>8</sup>Wazahat Khan v. Union of India, W.P.(CrI.) No. 247/2025, SC 2025.

<sup>9</sup>Cure SMA Foundation v. Samay Raina and Others, W.P.(C) No. 1627/2025, SC 2025.

### 1. Anuradha Bhasin v. Union of India (2020)

The case was a landmark judgment that reinforced the fundamental rights to freedom of speech, expression, and access to the internet under Articles 19(1)(a) and Article 21 of the Constitution. The Supreme Court held that indefinite suspension of internet services is illegal unless justified by lawful, temporary, and proportionate restrictions aimed at safeguarding national security. The Court emphasised transparency, ordering the government to produce and disclose all orders imposing restrictions. It declared that access to the internet is essential for exercising rights like free speech and trade, and must be protected as a fundamental right. The judgment mandated that restrictions be limited in scope, reviewed periodically, and based on objective criteria, ensuring they are not arbitrary or excessive. This case established that even during emergencies, rights to communication and press freedom must be respected, reinforcing the importance of proportionality, transparency, and accountability when imposing restrictions<sup>10</sup>.

### 1. Shreya Singhal v. Union of India (2015)

In this case, the Supreme Court's judgment is a milestone for free speech in India's digital world. The Court struck down Section 66A of the IT Act, which penalised "offensive" or "annoying" messages online, because it was vague and open to misuse. It recognised that terms like "annoyance" and "inconvenience" gave authorities excessive power to silence speech, including satire and political dissent. The Court affirmed that speech on the internet deserves the same protection as offline speech but must be subject only to clear and reasonable restrictions as per the Constitution. While it struck down Section 66A, the Court upheld other provisions like Section 69A that have safeguards to balance free speech with public interest. This ruling empowered citizens, limited arbitrary censorship, and remains a cornerstone protecting digital expression in India, emphasising that free speech cannot be curtailed by vague laws or at the whim of authorities<sup>11</sup>.

## **FREEDOM OF SPEECH IN DIGITAL REPUBLIC: INDIAN FRAMEWORK**

In India's digital age, freedom of speech is a cherished right but comes with clearly defined boundaries to protect individuals and society. Along with constitutional guarantees, various laws regulate online speech to ensure this balance.

The **Information Technology Act, 2000 (IT Act)**<sup>12</sup> is the key law for internet regulation in India. It protects social media platforms from liability for user-generated content if they follow due diligence by promptly removing unlawful posts. The Supreme Court, in *Shreya Singhal (2015)*, nullified Section 66A for its ambiguity and potential to suppress lawful expression. The **2021 Intermediary Guidelines**<sup>13</sup> require platforms to develop grievance redressal mechanisms, remove harmful content quickly, and be more transparent.

Another important recent development is the **Online Hate Speech (Prevention) Bill, 2024**<sup>14</sup>, which seeks to create a comprehensive framework specifically targeting hate speech online. This Bill proposes penalties for users who spread hate speech and mandates online platforms to enforce community guidelines, establish grievance mechanisms, user verification, and report incidents to government authorities to promote digital harmony.

In August 2025, the Supreme Court of India issued a significant directive (**Supreme Court Social Media Regulation Directive (2025)**)<sup>15</sup> asking the Union government to draft comprehensive guidelines to regulate social media conduct<sup>14</sup>. This came amid rising concerns about the misuse of free speech by social media influencers and digital creators who often commercialise their content in ways that harm public dignity, especially of vulnerable groups such as persons with disabilities, women, children, minorities, and senior citizens. The Court emphasised that while free speech is a constitutional right under Article 19(1)(a), it cannot be used irresponsibly or purely for commercial gain at the expense of societal respect

<sup>10</sup>Anuradha Bhasin v. Union of India, AIR 2020 SC 1308; (2020) 3 SCC 637

<sup>11</sup>Shreya Singhal v. Union of India, AIR 2015 SC 1523; (2015) 5 SCC 1

<sup>12</sup>Information Technology Act, 2000, No. 21, Act of Parliament, 2000 (India)

<sup>13</sup>The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, Ministry of Electronics and Information Technology, Government of India

<sup>14</sup>The Online Hate Speech (Prevention) Bill, 2024, Bill No. LXXIII of 2024 (India)

<sup>15</sup>Supreme Court of India, Social Media Regulation Directive (Aug. 25, 2025), (last visited Oct. 15, 2025)

and inclusion. The guidelines are to be developed in consultation with stakeholders including the **News Broadcasters and Digital Association**<sup>16</sup>. The Court also ordered social media influencers involved in derogatory content to issue public apologies. The directive aims to strike a crucial balance preserving freedom of expression while ensuring accountability, respect, and dignity in digital speech. The Court warned that penalties for violations must be robust and effective, not mere formalities.

Together, these laws form a multi-layered system aiming to uphold free expression in India's digital public sphere while protecting citizens from hate speech, defamation, obscenity, threats, and privacy violations. The courts have repeatedly emphasised that restrictions on speech must be clear, reasonable, and proportionate. They should not be misused to silence dissent or political criticism.

As India continues to embrace digital connectivity, balancing the right to speak freely with the need to prevent harm remains a challenging but crucial goal. Laws like the IT Act, and the upcoming Hate Speech Bill reflect the evolving legal landscape tasked with safeguarding democratic dialogue, personal dignity, and public order in India's vibrant digital democracy.

## **CONSTITUTIONALISM IN THE DIGITAL AGE**

### **1. From Magna Carta to Digital Age: Limiting Power Over Public Discourse**

Even the highest ruler is subject to laws, especially those that protect the rights and freedoms of the people, according to the Magna Carta, which was signed over 800 years ago and marked a significant step in limiting the absolute power of monarchs. It established the notion that authority should never be unbridled and that everyone has a right to some safeguards against capricious governance. In the current digital era, the idea is still very applicable, but it also applies to strong tech companies that dominate social media and other online forums where free speech is allowed.

Like Magna Carta, which faced down kings, modern constitutionalism faces down the power of the state and extends its oversight to corporations that control the digital lives of billions, making decisions about what content is acceptable and frequently serving as gatekeepers of public discourse, exercising an unprecedented amount of power that constitutionalism must rein in by protecting the rights of citizens to free expression, and by placing limits on harmful conduct<sup>17</sup>. This evolution illustrates that the timeless constitutional values of limiting power to protect rights must evolve to a world where private actors are performing public functions in the digital sphere.

### **1. Re-examining Constitutionalism for the Digital Era**

Traditional constitutionalism was created because the government's unbridled power posed the biggest threat to individual liberties. Today, the challenge is more complex. Transnational corporations and technocrats who control algorithms, data, and digital infrastructure share a great deal of power. These individuals influence opinions, control global dialogues and sometimes violate privacy. Constitutionalism must therefore be rethought to take into account both private, technologically dominant entities and states.

This implies that new interpretations of constitutional rights and values are required. It is now a complex ecosystem where private companies must answer for their massive impact on the axis, privacy and speech, rather than just a relationship between the citizen and the state<sup>1718</sup>. This rethinking is reflected in the emergence of a new digital rights framework and "Internet Bill of Rights" around the world. The objective is to guarantee that individual liberty and democratic principles endure and flourish in a world where data, algorithms and international Digital platforms, rule environments that the previous frameworks did not anticipate<sup>19</sup>.

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<sup>16</sup>News Broadcasters and Digital Association (NBDA)

<sup>17</sup>British Library, Magna Carta: My Digital Rights Project (2015),

[https://www.britishcouncil.org/sites/default/files/magna\\_carta\\_my\\_digital\\_rights.pdf](https://www.britishcouncil.org/sites/default/files/magna_carta_my_digital_rights.pdf)

<sup>18</sup>Wayne Lonstein, Time for a Magna Carta for the Digital Era?, Forbes (Sept. 10, 2018),

<https://www.forbes.com/councils/forbestechcouncil/2018/09/10/the-magna-cart-a-of-the-digital-age/>

<sup>19</sup>Kamran Balayev, The Case for a Digital Magna Carta, Conservative Home (Sept. 30, 2025),

<https://conservativehome.com/2025/10/01/kamran-balayev-the-case-for-a-digital-magna-cart-a/>

## 1. Balancing Individual Freedom and Collective Harmony

Individual rights are only one aspect of freedom of speech; it also affects society at large. This balance is essential in a nation with as much cultural and religious diversity as India. In order to preserve public order, uphold dignity, and stop hate, the Constitution allows, “reasonable restrictions” in addition to its guarantee of free speech.

In the online world, this plays out every day. Digital platforms enable bold, diverse speech but can also spread misinformation, hate speech, or content that offends groups or stirs violence. Laws like the IPC and its new Bharatiya Nyaya Sanhita counterpart try to carefully limit harmful speech while protecting legitimate expression. Courts remind us that freedom does not mean harm or disorder, it means respectful, responsible conversation<sup>20</sup>.

Finding this balance is an ongoing conversation: how to let individuals boldly voice opinions while ensuring we don’t destroy social cohesion or dignity. The digital age magnifies this tension but also offers chances to create thoughtful regulation rooted in fairness and human dignity<sup>21</sup>.

### 1. The Judiciary: Guardian of Rights and Mediator of Change

The court serves as the testing and safeguarding ground of this delicate balance. As guardians of the Constitution, judges, interpret the laws for a rapidly evolving digital world. India’s courts have pushed governments and businesses to respect proportionality, fairness, and transparency while opposing ambiguous laws that unjustly restrict speech.

From enforcing responsible internet shutdowns to encouraging arbitrary speech loss, the judiciary mediates between technological advancements and the protection of human rights. It serves as the final checkpoint to ensure that freedoms are not casualties of new power dynamics. Safeguard democracy, core promises by interpreting old constitutional values in a new context, and transformative digital forces.

Judicial review, which echoes the spirit of Magna Carta that no one, not even powerful, states or corporations, is above the law basically aids us in navigating the intricate relationship between changing technologies, public discourse, and individual freedom, the judiciary upholds, the belief that everyone can express themselves freely, fairly, and with dignity in digital space<sup>22</sup>.

## **BLUEPRINT FOR THE DIGITAL REPUBLIC: A PATH FORWARD**

The following suggestions are proposed to ensure that freedom of speech in the digital age is protected but responsibly regulated, recognising that this right is not absolute and ends where it infringes on others’ rights and dignity:

### 1. Clarify Reasonable Restrictions with Precision

Laws governing speech should clearly define what constitutes reasonable restrictions to avoid vague interpretations that chill legitimate expression. The law clearly distinguishes between protected speech, which includes satire, criticism, dissent and harmful speech, which includes hate speech, incitement to violence and defamation, particularly in a digital context. This clarity guarantees that speech is only restricted when it is absolutely necessary to protect the rights of others to maintain public order, preventing, arbitrary censorship by authorities or platforms.

### 1. Ensure Transparent and Accountable Content Moderation

Social media platforms must function fairly, openly and responsibly given their enormous influence as contemporary public squares. Platforms should avoid overbroad automated censorship, publish clear community guidelines, and offer, meaningful notice and appeal mechanism for content removal. This protects users, constitutional rights online by preventing ambiguous, “shadow banning” or deletion of legal content.

<sup>20</sup> Indian Penal Code §§ 153A, 295A (new Bharatiya Nyaya Sanhita provisions pending); see Kedar Nath Singh v. State of Bihar, AIR 1962 SC 955

<sup>21</sup> PUCI v. Union of India, AIR 1997 SC 568

<sup>22</sup> Magna Carta, 1215, reprinted in 1 HOLT, ORIGINAL PAPERS RELATING TO THE MAGNA CARTA AND THE CHARTERS OF THE LIBERTIES OF ENGLAND 1 (1914).

## 1. Balance Individual Rights and Collective Dignity

Particularly in diverse societies, constitutional protections ought to affirm that freedom of speech entails obligations. Expressions that unjustly injure someone else's honour, reputation or religious feelings ought to be restricted. The legal system must maintain a delicate balance between preserving liberal individualism and maintaining public order, guaranteeing social harmony without stifling free expression.

### 1. Update and Harmonise Legal Frameworks

Constitutional freedom should be aligned with new laws, such as the Digital Personal Data Protection Act and the Bharatiya Nyaya Sanhita. Protections will be strengthened and restrictions will be decreased by replacing outdated clauses with contemporary, targeted legislation, addressing digital realities. In view of technological advancements and rights-based jurisprudence, provisions about hate speech, defamation, and online privacy violations ought to be re-examined<sup>23</sup>.

### 1. Empower the Judiciary as Guardian of Rights

Courts must continue to play a crucial role in dynamically interpreting constitutional speech protection, adjusting to emerging technologies without sacrificing fundamental democratic principles. Judicial supervision should guarantee that private platform activities and state limitations follow the fairness, necessity, and proportionality requirements of the Constitution. Additionally, courts ought to support public interest lawsuits to address new online harms that disproportionately impact the underprivileged population.

### 1. Promote Public Awareness and Digital Literacy

To safeguard free speech, citizens must be empowered to identify, abuse, hate, speech, and false information. Programmes that promote critical engagement with digital content should be funded by governments and civil society. A thriving Digital democracy where respect for one another and freedom of expression co-exist requires an informed populace

In sum, freedom of speech in the digital era must be vigorously defended but responsibly exercised. As the saying goes, freedom ends "where the other person's nose begins." To protect a healthy democratic discourse in India's diverse and digital society, laws, platforms, courts, and citizens must work together in a balanced ecosystem that respects both individual voice and collective dignity.

## **CONCLUSION**

As we conclude this exploration, it becomes clear that the evolution of freedom of speech in the digital era is a story of balancing competing interests individual rights, societal dignity, and public order. From the Magna Carta's early limitation of sovereign power to today's complex digital environment, the core principle remains: power must be checked to protect human dignity and liberty. Today, that power is wielded not only by governments but also by private tech giants who, if left unchecked, could threaten the very freedoms they are meant to uphold.

Looking ahead, the way forward lies in crafting laws and policies that are clear, fair, and adaptable. We must respect the right to express diverse opinions, but also recognise that this freedom ends where it begins to harm others where hate, misinformation, or threats intrude into another's right to dignity and safety. The role of the judiciary remains vital. Courts should be guardians ensuring laws are applied fairly, protecting free speech from abuse while preventing its misuse to cause harm.

Furthermore, fostering a culture of responsibility is paramount. Citizens, platforms, and governments must work together to promote digital literacy, accountability, and respect. Education and awareness can help people discern truth from falsehood, encouraging responsible engagement rather than reckless censorship or uninhibited expression.

Technology is a powerful tool, but it must be guided by democratic values rooted in constitutional principles. Striking this balance is not easy, but it is necessary. We must remember that all rights, including

<sup>23</sup>India's Digital Personal Data Protection Rules, 2025, Ministry of Electronics and Information Technology, <https://inspiraenterprise.com/indias-digital-personal-data-protection-dpdp-rules-2025-a-brief-overview/>

free speech, are a part of our shared human dignity and protecting that dignity is ultimately a community effort that involves patience, understanding, and good governance.

In this journey, the legacy of Magna Carta reminds us that neither government nor corporate power should dominate unchallenged; a truly democratic digital future must protect both expression and human dignity. Together, we can build a digital space that is vibrant, inclusive, and a true reflection of the constitutional ideals that have guided humanity for centuries.

Through careful, thoughtful regulation and a collective commitment to respect and responsibility, we can ensure that freedom of speech continues to be a force for good in the digital age empowering individuals and enriching societies while safeguarding dignity and public order for generations to come.

