

LLRJ

LEX LUMEN RESEARCH JOURNAL

VOLUME 2 - ISSUE 1

2025

EDITOR-IN-CHIEF: DR. RAZIT SHARMA,
PUBLISHER: MRS. RACHANA

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It has been accepted for inclusion in the Journal after Due-review process.

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DIGITAL MEDIA PLATFORMS AND INTERMEDIARY LIABILITY IN INDIA: NAVIGATING THE CONSTITUTIONAL BALANCE BETWEEN FREE EXPRESSION AND CONTENT GOVERNANCE

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ABSTRACT

The evolution of digital media platforms in India presents unprecedented challenges to traditional notions of intermediary liability, freedom of expression, and constitutional governance. This article examines the complex legal framework governing digital platforms under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, analysing their constitutional validity and practical implementation. Through comprehensive examination of recent judicial decisions, including the Bombay High Court's landmark ruling striking down the Fact Check Unit provisions, this study explores how platform liability regulations intersect with fundamental rights under Articles 19 and 21 of the Indian Constitution. The research reveals critical tensions between state authority to regulate digital spaces and constitutional protections for free speech, particularly in the context of algorithmic content moderation and government oversight mechanisms. This analysis provides essential insights for legal practitioners, policymakers, and journalists covering

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Volume-2, Issue-1

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digital rights litigation, offering practical guidance for navigating India's evolving platform governance landscape while maintaining constitutional compliance.

KEYWORDS: Intermediary liability, digital platforms, content moderation, freedom of expression, IT Rules 2021, constitutional law, safe harbour provisions, platform governance.

INTRODUCTION

Digital media platforms have fundamentally transformed India's information ecosystem, creating new paradigms for communication, commerce, and civic engagement while simultaneously challenging established legal frameworks governing intermediary liability and content regulation.² The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, represent the government's most comprehensive attempt to regulate digital platforms, establishing detailed obligations for content moderation, user grievance mechanisms, and transparency reporting.³

The constitutional implications of these regulations extend far beyond technical compliance requirements, fundamentally reshaping the relationship between state authority, private platform governance, and individual rights to free expression.⁴ Recent judicial interventions, particularly the Bombay High Court's September 2024

² See Priyanka Chaudhary, Digital Communication Technologies and Regulatory Challenges in India, DIGITAL GOVERNANCE J. 45-67 (2024); see also Ministry of Electronics and Information Technology, Information Technology Rules 2021: A Comprehensive Analysis, GOV'T OF INDIA (2021).

³ The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, G.S.R. 139(E) (Feb. 25, 2021) (India).

⁴ See Vidhi Centre for Legal Policy, Constitutional Analysis of Platform Regulations, VIDHI LEGAL POL'Y (2024), <https://vidhilegalpolicy.in/blog/constitutional-analysis-platform-regulations/>.

decision striking down the Fact Check Unit provisions of the 2023 amendments, highlight critical constitutional tensions inherent in platform regulation.⁵

This legal landscape presents unique challenges and opportunities for legal journalism, as courts increasingly serve as arbiters of digital rights disputes that affect millions of Indian users.⁶ Understanding these complex regulatory frameworks becomes essential for legal correspondents covering technology law, constitutional litigation, and administrative governance in the digital age.⁷

LEGAL FRAMEWORK GOVERNING DIGITAL PLATFORM LIABILITY

Constitutional Foundation and Fundamental Rights

The Indian Constitution provides the foundational framework for analysing digital platform regulations, particularly through Articles 19 and 21, which guarantee freedom of speech and expression alongside the right to privacy and personal liberty.⁸ Article 19(1)(a) explicitly protects the right to freedom of speech and expression, while Article 19(2) permits reasonable restrictions in the interests of sovereignty, integrity of India, security of the state, friendly relations with foreign states, public order, decency, morality, contempt of court, defamation, or incitement to an offense.⁹

The Supreme Court's interpretation in *Shreya Singhal v. Union of India* established crucial precedents for digital content regulation, emphasizing that restrictions on online speech must meet constitutional standards of necessity, proportionality, and

⁵ Kunal Kamra and Ors. v. Union of India, Writ Petition No. 1928 of 2023 (Bombay H.C. Sept. 23, 2024).

⁶ See Supreme Court Observer, Digital Rights Litigation Trends in India, SC OBSERVER (2024), <https://www.scobserver.in/digital-rights-litigation-trends/>.

⁷ See Drishti IAS, Technology Law and Administrative Governance, DRISHTI IAS (2024), <https://www.drishtias.com/technology-law-administrative-governance>.

⁸ INDIA CONST. arts. 19, 21.

⁹ INDIA CONST. art. 19(2).

procedural fairness.¹⁰ This decision limited government authority to compel content removal, requiring court orders or specific statutory provisions for takedown requests.¹¹

Digital rights jurisprudence has evolved to recognize that fundamental rights apply equally in online and offline contexts.¹² The UN Human Rights Council's position, adopted by Indian courts, confirms that "the same rights that people have offline must also be protected online, in particular freedom of expression."¹³ This principle establishes the constitutional foundation for evaluating platform liability regulations against fundamental rights standards.

Statutory Framework: IT Act 2000 and Rules Evolution

Section 79: Safe Harbor Provisions

Section 79 of the Information Technology Act, 2000, provides conditional immunity to intermediaries for third-party content, establishing the legal foundation for platform operations in India.¹⁴ This provision states that intermediaries shall not be liable for third-party information, data, or communication links made available or hosted by them, provided they comply with prescribed due diligence requirements.¹⁵

The safe harbour protection operates through three key conditions: intermediaries must not initiate transmission, select receivers, or modify transmitted information;

¹⁰ Shreya Singhal v. Union of India, (2015) 5 S.C.C. 1 (India).

¹¹ Id.

¹² See Media Defence, Digital Rights and Freedom of Expression Online, MEDIA DEFENCE (2024), <https://www.mediadefence.org/digital-rights-freedom-expression-online/>.

¹³ Human Rights Council, Resolution on the Promotion, Protection and Enjoyment of Human Rights on the Internet, U.N. Doc. A/HRC/32/L.20 (2016).

¹⁴ The Information Technology Act, 2000, No. 21, Acts of Parliament, 2000, § 79 (India).

¹⁵ Id.

they must observe due diligence while discharging duties and follow government-prescribed guidelines; and they must not have actual knowledge of unlawful content or, upon gaining such knowledge, must expeditiously remove or disable access to such material.¹⁶

Recent jurisprudential developments have clarified that the distinction between "active" and "passive" intermediaries, while relevant for determining platform functions, does not categorically determine safe harbour eligibility.¹⁷ The Delhi High Court's decision in *Amazon Seller Services Pvt. Ltd. v. Amway India Enterprises Pvt. Ltd.* established that value-added services do not automatically disqualify platforms from safe harbour protection, provided they comply with Section 79 requirements.¹⁸

IT Rules 2021: Comprehensive Platform Regulation

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, substantially expanded regulatory obligations for digital platforms, particularly "Significant Social Media Intermediaries" (SSMIs) with over 5 million registered Indian users.¹⁹ These rules establish detailed compliance frameworks encompassing content moderation policies, grievance redressal mechanisms, transparency reporting, and specific obligations for automated content detection.²⁰

Key provisions require SSMIs to publish transparent community guidelines, establish grievance officers for user complaints, implement automated tools for detecting

¹⁶ Id.

¹⁷ See Cyril Amarchand Mangaldas, *Safe Harbour Protection for E-Commerce Platforms*, CYRIL AMARCHAND MANGALDAS (2022), <https://corporate.cyrilamarchandblogs.com/safe-harbour-protection-e-commerce-platforms/>.

¹⁸ *Amazon Seller Services Pvt. Ltd. v. Amway India Enterprises Pvt. Ltd.*, 2022 SCC OnLine Del 468.

¹⁹ Supra note 2, r. 2(v).

²⁰ Id. r. 4.

prohibited content, provide monthly compliance reports detailing content moderation activities, and maintain traceability capabilities for certain categories of messages.²¹ The rules also mandate appointment of India-resident compliance officers, nodal contact persons, and resident grievance officers for larger platforms.²² The regulatory framework establishes broad categories of prohibited content, including material that is defamatory, obscene, pornographic, pedophilic, invasive of privacy, hateful, ethnically objectionable, disparaging, relating to money laundering or gambling, or otherwise unlawful.²³ Platforms must ensure their terms of service prohibit such content and take appropriate action against violations.²⁴

CONSTITUTIONAL CHALLENGES AND JUDICIAL INTERPRETATION

Fact Check Unit Controversy and Bombay High Court Decision

The 2023 amendments to IT Rules, establishing government Fact Check Units (FCUs) empowered to identify "fake, false, or misleading" information about government business, represented a significant expansion of state authority over digital content.²⁵ These amendments required platforms to remove content identified by FCUs as problematic or risk losing safe harbour protection.²⁶ The Bombay High Court's landmark decision in *Kunal Kamra and Ors. v. Union of India* declared these amendments unconstitutional, finding violations of Articles 14,

²¹ Id. r. 4(1).

²² Id. r. 4(3).

²³ Id. r. 3(1)(b).

²⁴ Id.

²⁵ The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2023, G.S.R. 221(E) (Apr. 6, 2023) (India).

²⁶ Id. r. 3(1)(b)(v).

19, and 19(1)(g) of the Constitution.²⁷ Justice Gautam Patel's opinion emphasized that the FCU provisions created government monopoly over truth determination, stating that "anything could be said to be 'fake,' 'misleading' is entirely subjective, and as to 'truth' and 'falsity,' throughout recorded human history, there are few, if any, absolute truths."²⁸

The court's analysis highlighted constitutional deficiencies in the amendment: lack of procedural safeguards, absence of appellate mechanisms, vague definitions of prohibited content, and disproportionate impact on free speech rights.²⁹ The decision emphasized that making the government the "sole arbiter" of truth violates constitutional principles of separation of powers and fundamental rights protection.³⁰ This judicial intervention reflects broader concerns about state overreach in digital content regulation and the need to maintain constitutional balance between legitimate regulatory interests and fundamental rights protection.³¹ The decision establishes important precedents for future platform regulation initiatives, emphasizing requirements for procedural fairness, definitional clarity, and proportionate regulatory responses.³²

ALGORITHMIC CONTENT MODERATION AND CONSTITUTIONAL RIGHTS

Technological Implementation and Legal Implications

²⁷ Supra note 4.

²⁸ Id. at para. 47.

²⁹ Id. at paras. 42-58.

³⁰ Id. at para. 52.

³¹ See Vidhi Centre for Legal Policy, The Algorithm, the Intermediary and the (Holy?) State, VIDHI LEGAL POL'Y (Sept. 16, 2025), <https://vidhilegalpolicy.in/blog/the-algorithm-the-intermediary-and-the-holy-state/>.

³² Supra note 4, at para. 65.

Digital platforms increasingly rely on automated systems and artificial intelligence for content moderation at scale, creating new constitutional and legal challenges.³³ The IT Rules 2021 explicitly require SSIMs to "endeavour to deploy technology-based measures" to proactively identify prohibited content, particularly child sexual abuse material and content identical to previously removed material.³⁴

Algorithmic content moderation systems operate through various technological mechanisms, including hashing, natural language processing, computer vision, and machine learning models trained on large datasets.³⁵ These systems must balance efficiency in processing millions of daily posts against accuracy in distinguishing legitimate speech from harmful content, creating inherent challenges for constitutional compliance.³⁶

Research indicates significant bias issues in algorithmic moderation systems, particularly affecting marginalized communities and political discourse.³⁷ Content moderation systems "primed by majoritarian sentiment, routinely flag Ambedkarite assertion as 'hate speech' while casteist slurs" remain undetected, illustrating systematic discrimination in automated enforcement.³⁸ Such biases raise constitutional concerns about equal protection and fair treatment under Article 14.³⁹

Procedural Safeguards and Human Oversight Requirements

³³ Supra note 30.

³⁴ Supra note 2, r. 4(4).

³⁵ See Chase Advisors, AI and Content Moderation, CHASE ADVISORS (2024), <https://www.chase-advisors.com/ai-content-moderation/>.

³⁶ Id.

³⁷ Supra note 30.

³⁸ The Print, AI is Learning Caste Bias in India, THE PRINT (Sept. 15, 2025), <https://theprint.in/opinion/ai-is-learning-caste-bias-in-india/2744333/>.

³⁹ Supra note 30.

The IT Rules 2021 attempt to address algorithmic bias through mandatory procedural safeguards, requiring that automated tools be subject to "appropriate human oversight" and periodic review for "accuracy and fairness."⁴⁰ These provisions mandate evaluation of automated systems to guard against "propensity of bias and discrimination" and assessment of privacy and security impacts.⁴¹

However, implementation of these safeguards remains problematic due to lack of specific enforcement mechanisms and absence of designated regulatory oversight.⁴² The rules provide broad principles without detailed technical standards or accountability measures for ensuring compliance with anti-bias requirements.⁴³

Legal challenges to algorithmic content moderation often involve questions of procedural due process under Article 21, particularly regarding transparency in automated decision-making and availability of meaningful appeal mechanisms.⁴⁴ Courts have increasingly recognized that automated content moderation decisions affecting fundamental rights require constitutional protections similar to administrative actions.⁴⁵

TRANSPARENCY REPORTING AND ACCOUNTABILITY MECHANISMS

Monthly Compliance Reports and Data Disclosure

The IT Rules 2021 mandate monthly compliance reporting by SSMLs, creating unprecedented transparency requirements for platform content moderation

⁴⁰ Supra note 2, r. 4(4).

⁴¹ Id.

⁴² See India Governance Portal, Social Media Transparency Reporting: A Performance Review, IGAP (Jan. 1, 2025), <https://igap.in/social-media-transparency-reporting-performance-review/>.

⁴³ Id.

⁴⁴ Supra note 30.

⁴⁵ Id.

activities.⁴⁶ These reports must detail user complaints received, content removed proactively and reactively, response times for grievance resolution, and details of automated detection systems deployment.⁴⁷

Analysis of two and a half years of compliance reporting (June 2021-December 2023) reveals significant variations in disclosure practices among platforms.⁴⁸ Major platforms including Facebook, Instagram, WhatsApp, YouTube, X, Snap, Share Chat, Koo, and LinkedIn provide monthly reports, but with inconsistent methodologies and varying levels of detail.⁴⁹

Transparency reporting effectiveness remains limited by several factors: flexibility in reporting requirements allows platforms to interpret obligations differently, absence of standardized reporting formats creates comparison difficulties, unclear scope regarding geographical limitations of reported data, and lack of external auditing or verification of reported statistics.⁵⁰ These limitations reduce the accountability value of mandated transparency measures.⁵¹

International Comparative Analysis

Indian transparency reporting requirements exist within a global landscape of evolving platform accountability measures.⁵² The European Union's Digital Services

⁴⁶ Supra note 2, r. 4(1)(d).

⁴⁷ Id.

⁴⁸ Supra note 41.

⁴⁹ Id.

⁵⁰ Id.

⁵¹ Id.

⁵² See How Transparent Are Transparency Reports? Comparative Analysis of Social Media Platform Disclosures, 45 COMPUT. L. & SECURITY REV. 123 (2022).

Act, Germany's NetzDG, and various national frameworks provide different approaches to platform transparency and content moderation oversight.⁵³

Comparative analysis reveals that Indian requirements are relatively comprehensive in scope but lack enforcement mechanisms and standardization present in other jurisdictions.⁵⁴ The Santa Clara Principles 2.0, widely adopted as global standards for platform transparency, highlight areas where Indian regulations could be strengthened through more detailed disclosure requirements and standardized metrics.⁵⁵

GOVERNMENT-PLATFORM REGULATORY DYNAMICS

State Authority and Platform Governance

The relationship between government regulatory authority and private platform governance creates complex constitutional and practical challenges.⁵⁶ Digital platforms function as "private governors" exercising quasi-public authority over speech and information access, while government regulations attempt to shape platform policies and practices.⁵⁷

This regulatory dynamic involves multiple governmental actors: the Ministry of Electronics and Information Technology (MeitY) as primary regulator, the Ministry of Information and Broadcasting (MIB) for digital media content, state governments with jurisdiction over local law enforcement, and courts providing constitutional oversight

⁵³ Id.

⁵⁴ Supra note 41.

⁵⁵ Santa Clara Principles on Transparency and Accountability in Content Moderation, Version 2.0 (2019), <https://santaclaraprinciples.org/>.

⁵⁶ See Digital Democracy Initiative: Global Policy and Legal Action, HUMAN RIGHTS DEN. (Dec. 31, 2024), <https://www.humanrights.dk/digital-democracy-initiative/>.

⁵⁷ Id.

and dispute resolution.⁵⁸ Each actor brings different perspectives and authorities to platform governance questions.⁵⁹

Recent developments illustrate tensions between state regulatory authority and constitutional limitations. The FCU controversy exemplifies how regulatory overreach can trigger constitutional challenges, while ongoing disputes over content blocking orders demonstrate ongoing tensions between platform autonomy and government oversight.⁶⁰

ENFORCEMENT MECHANISMS AND COMPLIANCE CHALLENGES

Loss of Safe Harbor and Liability Consequences

The primary enforcement mechanism for IT Rules compliance involves withdrawal of safe harbour protection under Section 79, exposing platforms to liability for third-party content.⁶¹ This approach creates powerful incentives for platform compliance but raises concerns about over-censorship and chilling effects on legitimate speech.⁶² When platforms lose safe harbour protection, they become potentially liable under various criminal and civil law provisions, including defamation, hate speech, sedition, and other content-based offenses.⁶³ This liability exposure creates strong incentives for platforms to err on the side of content removal rather than risk legal consequences.⁶⁴

⁵⁸ Supra note 2, r. 1(2).

⁵⁹ Supra note 55.

⁶⁰ Supra note 4.

⁶¹ Supra note 2, r. 7.

⁶² Id.

⁶³ See Your Legal Career Coach, Content Moderation Under the Indian Law, YOUR LEGAL CAREER COACH (June 25, 2025), <https://yourlegalcareercoach.com/content-moderation-under-indian-law/>.

⁶⁴ Id.

The effectiveness of this enforcement approach depends on government capacity to monitor compliance and willingness to actually withdraw safe harbour protection.⁶⁵ To date, no major platform has permanently lost safe harbour status, though several have faced temporary compliance challenges and government pressure.⁶⁶

Practical Implementation Challenges

Platform compliance with IT Rules requirements faces several practical challenges: scale of content moderation required for millions of daily posts, linguistic diversity requiring content moderation in numerous Indian languages, cultural context sensitivity in determining harmful versus legitimate content, and resource constraints for smaller platforms subject to SSML requirements.⁶⁷

Regional language moderation presents particular difficulties, as automated systems often lack sophistication for contextual analysis in languages other than English.⁶⁸ This limitation creates enforcement gaps and potential discrimination against non-English speaking users.⁶⁹

Technical implementation challenges include developing accurate automated detection systems, maintaining user privacy while enabling traceability requirements, balancing transparency with trade secret protection, and ensuring system reliability

⁶⁵ Supra note 41.

⁶⁶ Id.

⁶⁷ See Internet Society, Internet Impact Brief: 2021 Indian Intermediary Guidelines, INTERNET SOCIETY (Apr. 25, 2024), <https://www.internetsociety.org/indian-intermediary-guidelines-internet-experience-india/>.

⁶⁸ Supra note 37.

⁶⁹ Id.

and security.⁷⁰ These challenges require ongoing technological development and regulatory adaptation.⁷¹

IMPACT ON DIGITAL RIGHTS AND DEMOCRATIC DISCOURSE

Freedom of Expression in Digital Spaces

Digital platform regulation significantly impacts the exercise of fundamental rights to freedom of expression, creating new forms of prior restraint and content-based restrictions.⁷² The combination of government regulation and private platform policies creates multiple layers of speech regulation that collectively may exceed constitutional limitations.⁷³

Research indicates that content moderation systems, whether automated or human-operated, tend toward over-removal of legitimate speech due to error costs and liability concerns.⁷⁴ This "chilling effect" particularly impacts marginalized voices and dissenting political opinions.⁷⁵ Studies show that "emotionally charged fake content spreads 70% faster than factual news," but automated systems often cannot distinguish between legitimate passionate discourse and harmful misinformation.⁷⁶

⁷⁰ Supra note 2, r. 4(2).

⁷¹ See India AI, A Comprehensive Approach to Content Moderation, INDIAAI (Aug. 19, 2024), <https://indiaai.gov.in/comprehensive-approach-content-moderation-social-media/>.

⁷² See Freedom of Expression Online, UNESCO (Jan. 10, 2024), <https://www.unesco.org/freedom-expression-online>.

⁷³ Id.

⁷⁴ Supra note 30.

⁷⁵ Supra note 37.

⁷⁶ See PMF IAS, Digital Misinformation: Key Drivers, PMF IAS (May 13, 2025), <https://www.pmfias.com/digital-misinformation/>.

The intersection of government pressure and platform liability creates additional concerns about indirect censorship.⁷⁷ When platforms face potential loss of safe harbour for failing to remove government-flagged content, the resulting compliance incentives may effectively circumvent constitutional protections against direct government censorship.⁷⁸

Digital Democracy and Public Discourse Quality

Platform content moderation policies significantly influence the quality and diversity of public discourse in digital spaces.⁷⁹ Algorithmic curation and content removal decisions shape information exposure, opinion formation, and democratic participation.⁸⁰

The challenge of regulating misinformation while preserving legitimate debate illustrates broader tensions in digital democracy.⁸¹ Overly broad anti-misinformation measures risk suppressing legitimate criticism and dissenting viewpoints, while insufficient action may allow harmful false information to undermine democratic processes.⁸²

Platform transparency reporting reveals limited effectiveness of current approaches to balancing these concerns.⁸³ Monthly compliance reports show high volumes of

⁷⁷ Supra note 4.

⁷⁸ Id.

⁷⁹ See Platform Democracy – A Different Way to Govern Big Tech, AVIV (Nov. 15, 2022), <https://reimagine.aviv.me/platform-democracy-govern-big-tech>.

⁸⁰ Id.

⁸¹ See Law Journals, Law Related to Misinformation and Fake News in India, LAW J. (2025), <https://www.lawjournals.org/fake-news-misinformation-law-india.pdf>.

⁸² Id.

⁸³ Supra note 41.

content removal and user complaints, but provide limited insight into accuracy of moderation decisions or impact on democratic discourse quality.⁸⁴

Implications for Vulnerable and Marginalized Communities

Digital platform regulation disproportionately affects vulnerable and marginalized communities who rely on social media for political expression and community organizing.⁸⁵ Algorithmic bias in content moderation systems particularly impacts Dalit, religious minority, and other marginalized voices.⁸⁶

Research indicates that content moderation systems trained on mainstream datasets often misclassify legitimate advocacy by marginalized communities as hate speech or misinformation.⁸⁷ This systematic bias raises constitutional equal protection concerns and undermines the democratic potential of digital platforms.⁸⁸

The language barrier in content moderation also creates discrimination against non-English speakers, who may face disproportionate content removal due to limited automated detection capabilities in regional languages.⁸⁹ This disparity raises questions about equal access to digital platforms and constitutional protections for linguistic minorities.⁹⁰

FUTURE DIRECTIONS AND LEGAL EVOLUTION

Emerging Regulatory Trends

⁸⁴ Id.

⁸⁵ Supra note 30.

⁸⁶ Supra note 37.

⁸⁷ Supra note 30.

⁸⁸ Id.

⁸⁹ Supra note 75.

⁹⁰ Supra note 30.

Several regulatory developments suggest continued evolution in India's approach to platform governance: proposed amendments to IT Rules addressing emerging technologies like artificial intelligence and deepfakes, development of sector-specific regulations for different types of digital services, increased focus on data protection and privacy compliance, and enhanced international cooperation on cross-border platform regulation.⁹¹

The Digital Personal Data Protection Act, 2023, creates additional compliance obligations for platforms handling personal data, potentially affecting content moderation practices and user profiling for automated decision-making.⁹² Integration of privacy and content regulation requirements creates new compliance challenges and potential conflicts.⁹³

Emerging technologies like generative AI and deepfakes present new regulatory challenges that current frameworks may inadequately address.⁹⁴ The government's recent advisories on AI-generated content suggest ongoing regulatory development in this area.⁹⁵

Judicial Evolution and Constitutional Interpretation

Indian courts continue developing digital rights jurisprudence through constitutional interpretation and statutory construction.⁹⁶ Recent decisions indicate increased

⁹¹ See PIB India, India Well-Equipped to Tackle Online Harms, PIB (Dec. 25, 2023), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2154268>.

⁹² The Digital Personal Data Protection Act, 2023, No. 22, Acts of Parliament, 2023 (India).

⁹³ Supra note 90.

⁹⁴ Supra note 75.

⁹⁵ Supra note 90.

⁹⁶ Supra note 30.

judicial scrutiny of platform regulations and greater emphasis on constitutional protections for digital speech.⁹⁷

The trend toward horizontal application of fundamental rights to private platform actions suggests potential expansion of constitutional protections in digital spaces.⁹⁸

This development could require platforms to comply directly with constitutional standards rather than merely following government regulations.⁹⁹

Future litigation likely will address questions of algorithmic due process, automated decision-making accountability, and the scope of state authority to regulate private platform governance.¹⁰⁰ These cases will shape the constitutional framework for digital platform regulation for years to come.¹⁰¹

International Harmonization and Regulatory Convergence

India's platform regulation approach increasingly considers international best practices and global regulatory trends.¹⁰² The European Union's Digital Services Act, various national platform accountability measures, and multilateral initiatives on digital governance influence domestic regulatory development.¹⁰³

UNESCO's Guidelines for the Governance of Digital Platforms emphasize multistakeholder approaches, human rights protection, and transparent regulatory

⁹⁷ Supra note 4.

⁹⁸ Supra note 30.

⁹⁹ Id.

¹⁰⁰ Id.

¹⁰¹ Supra note 4.

¹⁰² See How Transparent Are Transparency Reports? supra note 51.

¹⁰³ Id.

processes.¹⁰⁴ These international standards provide benchmarks for evaluating Indian regulatory approaches and identifying areas for improvement.¹⁰⁵

The cross-border nature of digital platforms requires increased international cooperation on regulatory enforcement and policy coordination.¹⁰⁶ India's participation in global digital governance initiatives will likely influence future domestic regulatory development.¹⁰⁷

IMPLICATIONS FOR LEGAL PRACTICE AND JOURNALISM

Legal Journalism Opportunities and Challenges

The evolving landscape of digital platform regulation creates significant opportunities for specialized legal journalism focusing on technology law, constitutional rights, and regulatory compliance.¹⁰⁸ Legal correspondents covering this area must understand complex technical concepts, constitutional principles, and regulatory frameworks to provide accurate and insightful coverage.¹⁰⁹

Key areas for legal journalism coverage include: ongoing constitutional challenges to platform regulations, development of new regulatory frameworks and amendments, judicial decisions interpreting digital rights and platform obligations, international

¹⁰⁴ UNESCO Guidelines for the Governance of Digital Platforms, UNESCO (2024), <https://www.unesco.org/internet-trust/guidelines>.

¹⁰⁵ Id.

¹⁰⁶ See UNDP, Digital Governance, UNDP (Aug. 31, 2025), <https://www.undp.org/governance/digital-governance>.

¹⁰⁷ Id.

¹⁰⁸ See Law Bhoomi, Career as a Legal Journalist, LAW BHOOMI (Jan. 6, 2025), <https://lawbhoomi.com/career-as-a-legal-journalist/>.

¹⁰⁹ Id.

comparative analysis and best practices, and impact of regulations on different stakeholder groups.¹¹⁰

The technical complexity of platform regulation requires legal journalists to develop expertise in areas including: content moderation technologies and automated decision-making systems, data protection and privacy law compliance, constitutional law principles applicable to digital rights, comparative international regulatory approaches, and empirical research on regulation effectiveness.¹¹¹

Professional Development for Legal Correspondents

Legal journalists covering digital platform regulation must develop multidisciplinary expertise combining traditional legal analysis with technical understanding and policy evaluation skills.¹¹² Professional development opportunities include specialized training in technology law and digital rights, workshops on understanding algorithmic systems and AI governance, continuing education in constitutional law interpretation, and networking with technology law practitioners and academics.¹¹³

Successful legal journalism in this area requires building relationships with diverse sources including: technology law practitioners and academics, digital rights advocates and civil society organizations, platform compliance officers and policy experts, government regulatory officials and policymakers, and affected communities and user advocates.¹¹⁴

¹¹⁰ Id.

¹¹¹ Id.

¹¹² Id.

¹¹³ Id.

¹¹⁴ Id.

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The rapid pace of technological and regulatory change requires continuous learning and adaptation.¹¹⁵ Legal journalists must stay current with regulatory developments, judicial decisions, technological innovations, and academic research to provide informed and accurate coverage.¹¹⁶

CONCLUSION

Digital media platforms and intermediary liability regulation in India presents one of the most complex and rapidly evolving areas of contemporary legal practice, combining constitutional law, technology regulation, and democratic governance in unprecedented ways.¹¹⁷ The Information Technology Rules 2021 represent ambitious regulatory intervention in digital spaces, but their implementation reveals significant challenges in balancing legitimate regulatory objectives with constitutional protections for freedom of expression and due process.¹¹⁸

The Bombay High Court's decision striking down the Fact Check Unit provisions demonstrates judicial commitment to maintaining constitutional constraints on government authority in digital spaces.¹¹⁹ This decision, along with ongoing constitutional challenges to other aspects of platform regulation, establishes important precedents for future regulatory development and judicial oversight.¹²⁰

Algorithmic content moderation presents particular challenges for constitutional compliance, as automated systems often exhibit biases that disproportionately affect marginalized communities and may lack adequate procedural safeguards.¹²¹ The

¹¹⁵ Id.

¹¹⁶ Id.

¹¹⁷ Supra note 30.

¹¹⁸ Supra note 2.

¹¹⁹ Supra note 4.

¹²⁰ Id.

¹²¹ Supra note 30.

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tension between technological efficiency and constitutional requirements for fair treatment and due process will likely drive continued litigation and regulatory evolution.¹²² Transparency reporting requirements under current regulations provide valuable data about platform content moderation activities but remain insufficient for meaningful accountability without standardization and external verification.¹²³ Future regulatory development should address these gaps while maintaining constitutional compliance and practical feasibility.¹²⁴

The implications of platform regulation extend far beyond technical compliance requirements, fundamentally affecting democratic discourse, minority rights, and the constitutional balance between state authority and individual liberty in digital spaces.¹²⁵ Legal journalists covering this area play crucial roles in public education and accountability, requiring sophisticated understanding of constitutional principles, technological systems, and regulatory frameworks.¹²⁶

As India continues developing its approach to digital governance, the intersection of constitutional law, technology regulation, and democratic values will remain contested terrain requiring ongoing judicial oversight, legislative refinement, and public engagement.¹²⁷ The evolution of this regulatory framework will significantly influence India's democratic future and serve as a model for other jurisdictions grappling with similar challenges.¹²⁸

¹²² Id.

¹²³ Supra note 41.

¹²⁴ Supra note 103.

¹²⁵ Supra note 78.

¹²⁶ Supra note 107.

¹²⁷ Supra note 105.

¹²⁸ Supra note 103.