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RIGHT TO INTERNET ACCESS: A CONSTITUTIONAL AND HUMAN RIGHTS PERSPECTIVE IN THE DIGITAL AGE

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I. ABSTRACT

*In the digital age, access to the Internet has become central to the effective enjoyment of constitutional freedoms and human rights. This paper examines whether Internet access should be recognised as an independent fundamental right or as a derivative right that enables the exercise of existing rights such as freedom of speech and expression, education, privacy, trade, access to information, and democratic participation. The study adopts a doctrinal and comparative legal methodology, relying on constitutional provisions, judicial decisions, international human rights instruments, United Nations resolutions, policy documents, and scholarly literature. It also considers comparative developments in selected jurisdictions to understand how different legal systems have approached digital connectivity and Internet-related rights. The paper finds that although the Indian Constitution does not expressly guarantee a right to Internet access, judicial interpretation has increasingly linked Internet access with Articles 19 and 21. Decisions such as *Anuradha Bhasin v. Union of India* and *Faheema Shirin R.K. v. State of Kerala* demonstrate that Internet connectivity is constitutionally significant for speech, profession, education, and privacy. At the international level, United Nations human rights standards affirm that rights protected offline must also be protected online and condemn arbitrary disruptions of access to information. The paper further argues that Internet shutdowns must satisfy the tests of legality, necessity, proportionality, and reasonableness. It concludes that meaningful, affordable, and non-discriminatory Internet access is no longer a mere technological convenience but an essential condition for dignity, equality, democratic participation, access to public services, and inclusive development in contemporary modern society.*

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II. KEYWORDS

Right to Internet, Digital Rights, Article 21, Internet Shutdowns, Digital Constitutionalism.

III. INTRODUCTION

In the twenty-first century, the way in which people communicate, do business, obtain education, participate in politics and exercise their fundamental freedoms has undergone an unprecedented revolution. At the heart of this revolution is the Internet a planet-wide system of interconnected computers that has irrevocably altered societies, political processes, economic development and cultures across the globe. What was once envisioned as an amazing technology that enabled the sharing of information has become an engine that facilitates nearly every aspect of life today. Rather than a 'special' feature or a luxury, access to the Internet is increasingly seen as a 'necessity' for the realization of a whole range of civil, political, economic, social and cultural rights. The adoption and reliance upon digital mediums has significantly changed the nature of the citizen-State relationship. Communication, institutions and other aspects of private life are now dependent on the Internet. The lack of which may undermine the enjoyment of constitutional and human rights. The outbreak of a global pandemic has further cemented the Internet as an indispensable resource. As millions turned to online means to work, learn and check on friends and family they could neither see nor reach, social and digital inequalities came into stark relief.²

The notion of 'Right to Internet' is a product of these developments. The notion is understood as the right of every individual to have the access and use of Internet services without undue restriction, discrimination and interference. While this right is not explicitly enshrined under the existing human rights framework, it is now widely postulated by legal scholars that the Internet must be considered a prerequisite for the

² World Bank, *World Development Report 2021: Data for Better Lives* (World Bank Publications, Washington D.C., 2021) 17.

realization of a number of enumerated human rights such as the right of expression, access to information, education, right to privacy, freedom of assembly and participation in political affairs.³

The global consensus is that Internet access is a vital aspect in the protection of human rights. The UN Human Rights Council has continually stated that one's rights offline must "generally be protected" online.⁴ Specifically, the Human Rights Council has condemned measures which intentionally disrupt or obstruct access to information online and called for States to ensure universal access to the Internet. These evolving norms signal the establishment of an international consensus that connectivity is an integral part of human dignity, democracy and development.

Legalization of Internet access has been growing in other jurisdictions as well. Finland has defended broadband Internet connections as a basic service; courts in Costa Rica and France have similarly recognized the role that Internet access plays in enabling democratic participation and exercising constitutional rights.⁵ These legal advances demonstrate how Internet access is becoming constitutionalized.

In the Indian context, the issue is of even greater urgency given the scale of the country's fast expanding digital revolution and its cost-effective e-Governance plans. With the largest number of Web users and a rapidly growing digital infrastructure, driven by projects like Digital India, BharatNet and National Broadband Mission, India is trying to build an 'inclusive knowledge society' by using digital technology. Nevertheless, despite the considerable progress made so far, affordability, accessibility, digital literacy and regional disparity still pose obstacles to universal Internet access.⁶ The constitutional

³ Frank La Rue, Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, UN Doc A/HRC/17/27 (16 May 2011) para 61.

⁴ United Nations Human Rights Council, The Promotion, Protection and Enjoyment of Human Rights on the Internet, UN Doc A/HRC/RES/32/13 (2016).

⁵ Meryl Alper and Gerard Goggin, 'Digital Technology and Rights in the Digital Age' (2017) 39(4) *New Media & Society* 1, 6.

⁶ Ministry of Communications, Government of India, National Broadband Mission 2019–2025 (Department of Telecommunications, New Delhi, 2019) 5.

dimension of Internet access became evident through judicial decisions. In *Faheema Shirin R.K. v. State of Kerala*, the Kerala High Court held that “the right to have access to Internet becomes the part of right to education as well as right to privacy under Article 21 of the Constitution of India”.⁷ Similarly, in *Anuradha Bhasin v. Union of India*, the Supreme Court declared that “the freedom of speech and expression and the freedom to practice any profession or carry on any trade, business or occupation over the medium of internet enjoys constitutional protection under Article 19(1)(a) and Article 19(1)(g).” These two decisions have been instrumental in shaping digital rights jurisprudence in India and have contributed to the broader debate on whether Internet access should be recognised as an independent fundamental right or as a derivative right facilitating the exercise of existing constitutional freedoms.⁸

The escalation in incidents of Internet shutdowns is also a salient feature in this debate. India has had among the highest counts of Internet shutdowns in the world ever since. While the State does have legitimate interests of preservation of security and public order, and of preventing the distribution of false information, illegal or disproportionate, unchecked and anti-constitutional shutdowns threaten the very position and effect of our constitutional rights. This undoubtedly is one of the prominent constitutional issues that have been raised in the present day where security interests are pitted against the directives of the constitutional and legal framework.⁹

The issue of Internet access and constitutional governance does not only implicate issues of access but also the larger set of issues around digital inclusion, equality, data protection, cyber security, online surveillance, platform accountability and algorithmic governance. An indelible aspect of growing digitization of societies, the legal order must

⁷ *Faheema Shirin RK v. State of Kerala*, AIR 2020 Ker 35.

⁸ *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637.

⁹ Internet Freedom Foundation, *Internet Shutdowns in India: Constitutional and Human Rights Concerns* (Policy Report, 2023) 11.

be equipped to accommodate new issues emerging from the evolution of digital norms and emerging challenges to constitutional values and human rights.

The significance of this inquiry is heightened by the fact that our participation in contemporary society is becoming ever more dependent on being connected, electronically, to the rest of the world. What were once considered essential services, such as access to information and Government services, have shifted to the virtual sphere; politics and education have moved into cyberspace. In this context, the denial of access to the Internet has implications for individuals' social exclusion, economic marginalization and disenfranchisement from democratic decision-making processes. The constitutional enshrinement of the right to Internet access therefore poses one of the most profound challenges of our time.

A. Research Objectives

The present research is guided by the following objectives:

1. To examine the legal status of the right to Internet access from constitutional, human rights, and comparative legal perspectives.
2. To evaluate whether Internet access should be recognised as an independent fundamental right or as a derivative right that facilitates the effective enjoyment of other constitutional and human rights.
3. To analyse the emerging judicial approach to digital rights, particularly in relation to freedom of speech and expression, education, privacy, trade, and access to information through the Internet.
4. To assess the legality and constitutional validity of Internet restrictions and shutdowns in light of the principles of legality, necessity, proportionality, and reasonableness.
5. To examine the role and obligation of the State in ensuring universal, affordable, non-discriminatory, and meaningful access to the Internet in the digital age.

B. Research Questions

The present research seeks to address the following questions:

1. Whether access to the Internet qualifies as an independent fundamental right under the Indian Constitution, or whether it should be understood as a derivative right flowing from existing constitutional guarantees?
2. How does Internet access facilitate the effective exercise of fundamental rights such as freedom of speech and expression, education, privacy, trade, access to information, and democratic participation?
3. To what extent have Indian courts recognised and protected Internet-related rights through constitutional interpretation?
4. Whether Internet shutdowns and restrictions imposed by the State satisfy the constitutional requirements of legality, necessity, proportionality, and reasonableness?
5. What positive obligations does the State bear in ensuring universal, affordable, non-discriminatory, and meaningful access to the Internet in the digital age?

C. Research Methodology

The present study adopts a doctrinal and comparative legal research methodology. The doctrinal method is used to examine the constitutional, statutory, judicial, and international legal framework relating to the right to Internet access. The study relies primarily on legal sources such as constitutional provisions, judicial decisions, statutes, international human rights instruments, United Nations resolutions, policy documents, and reports of governmental and international bodies. Secondary sources, including books, journal articles, legal commentaries, research reports, and scholarly writings, are also used to support the analysis.

The research further adopts a comparative legal method to understand how different jurisdictions have approached the recognition and protection of Internet access. The jurisdictions selected for comparison - Finland, Estonia, France, Greece, and Costa Rica have been chosen because they represent distinct constitutional, legislative, judicial, and

policy-based approaches to digital connectivity and Internet-related rights. This comparative assessment assists in evaluating whether similar principles may inform the development of Indian constitutional jurisprudence on the right to Internet access.

IV. CONCEPTUAL AND THEORETICAL FRAMEWORK OF THE RIGHT TO INTERNET

The advent of the Internet has revolutionized human civilization in a similar manner to that of the Industrial Revolution or the printing press. In today's world, the Internet is no longer a mere means of communication; rather, it has become a fundamental infrastructure upon which trade, education, governance, health, social relations, political participation, and delivery of justice rely. This digital revolution has transformed ways in which humans can exercise their human rights and engage in democratic processes. The burgeoning reliance upon digital technologies has raised profound legal and philosophical concerns as to the nature of Internet access, in light of the development of constitutional law and human rights.

Traditionally, human rights were concerned with traditional qualities and liberties such as free speech, free movement, political participation, property rights and access to justice. However, in the digital age, the question of whether Internet access itself merits independent recognition as an autonomous human right or access to the Internet remains an indispensable catalyst to human rights is becoming increasingly more pressing.

The issues surrounding the Right to Internet are not purely technological, but are of constitutional philosophy, democracy, and human rights. In the modern democratic world, the populace increasingly depends upon new means of accessing the media, politics, finance and other social services through digital channels. All government agencies, educational bodies and institutions, all judiciary proceedings, all commerce and other services are gradually shifting to digital formats. Those who cannot make use of the internet, users or non-users, are thereby bereft of all opportunities to participate in the

options available and are consequently denied some essential dignity, equality and justice.¹⁰

The importance of access to the Internet was made especially clear during the COVID-19 pandemic. Schools moved to online learning platforms, businesses implemented remote working arrangements, courts held virtual hearings, and governments communicated information digitally. The pandemic established that access to the Internet has become a necessity in participating in social and economic life. Those lacking access were significantly disadvantaged in the realms of education, employment, healthcare and civic engagement.¹¹

In the midst of such transformation, the definition of Internet access has increasingly shifted from being merely a matter of technology policy issues to a question of rights. The international institutions such as the United Nations have laid stress that the fundamental rights, we had offline need online protections as well. At the same time, the national courts of different jurisdictions began to pay attention to the constitutional significance of digital connectivity. The trend has indicated that there is an emerging consensus that access to the Internet is an important area of freedom we can enjoy today.

The aim of this chapter is to explore the conceptual and theoretical basis of the Right to Internet. It will first analyze the meaning, nature, characteristics, and dimensions of Internet access as a legal right. It will then review a range of conceptual frameworks, applying them to consider whether Internet access is justified as a fundamental right in a contemporary constitutional democracy, including natural rights theory, human rights theory, information society theory, social contract theory, and digital constitutionalism.

¹⁰ Manuel Castells, *The Rise of the Network Society* (2nd edn, Wiley-Blackwell, Oxford, 2010) 371.

¹¹ United Nations Development Programme, *Human Development Report 2021-22* (UNDP, New York, 2022) 95.

A. Meaning and Concept of the Right to Internet

The Right to Internet entitles everyone to have access to, and use of, Internet services without unjustifiable, unreasonable discrimination, and arbitrary interference. It covers both the physical access to infrastructure as well as meaningful access to the same through use which empowers a person to communicate, search and use information, express views, and participate in economic, social and political life. It is not a right explicitly expressed in the constitutional texts as a fundamental right but a derivative or enabling right, essential to avail the exercises of a whole range of other fundamental rights including is the Right to the freedom of speech and expression, the right to assembly and association, the right to information, right to education, right to privacy, right to livelihood, etc.¹²

The way in which Internet access has been theorized has changed significantly over time. At the infancy of technological development, Internet connectivity was viewed merely as a commercial product –notably determined by market, demand, or technological provision. As digital society became increasingly embedded in daily life, however, intellectuals and policymakers began to realize that Internet exclusion could be a form of social, economic, and political exclusion.

The concept therefore extends beyond mere technical connectivity. It encompasses several dimensions:

- 1. Physical Accessibility:** Physical accessibility describes the physical access to the Internet. This encompasses broadband infrastructure, the network of clients and the technology clients use such as telephones and computers. Without sufficient infrastructure, true accessibility is not actually achieved (especially in rural and disadvantaged areas).

¹² Frank La Rue, Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, UN Doc A/HRC/17/27 (16 May 2011) para 61.

2. **Economic Accessibility:** Economic accessibility, the costs of the Internet must be reasonable for all people. If the costs are too high, poorer groups might be effectively kept out of the Internet.
3. **Non-Discriminatory Access:** Equality of access to the Internet: Access to the Internet should be available without regard to race, gender, religion, caste, disability, language, location or socio-economic status.
4. **Quality and Reliability:** Access should be adequate for meaningful engagement with digital resources. If connectivity is sporadic, then the ability to effectively exercise rights relying on those resources can be compromised.
5. **Freedom from Arbitrary Interference:** Protection from arbitrary restriction, censorship, surveillance and unjustified shutdown of the Internet by the State or private actors is also encompassed within the concept. As such, the RtI imposes both positive as well as negative obligations. While the State has positive obligations towards ensuring infrastructure development and digital inclusion, it also has negative obligations, to desist from any arbitrary restrictions on the access of the Internet.

B. Nature of the Right to Internet

The characterization of the Right to Internet is subject to intensive academic discussion and judicial analysis. Diverse points of view are in circulation concerning its legal nature.

1. **Internet Access as an Enabling Right:** Numerous independent thinkers have agreed that Internet access is a rights enabler, citing most access rights enable other rights to be exercised. For example, as the right to education permits an individual to exercise most other rights effectively, access to the Internet enables people to communicate, learn, work and participate in democracy.¹³

¹³ Jan van Dijk, *The Deepening Divide: Inequality in the Information Society* (Sage Publications, London, 2005) 14.

2. **Internet Access as a Human Right:** A second approach treats providing Internet access as a separate human right. Supporters believe that access to digital networks is now a vital part of human growth and dignity, and that lost access may deprive individuals of core life opportunities.
3. **Internet Access as a Socio-Economic Right:** According to some researchers, access to the Internet is regarded as a socio-economic right similar to other rights such as education, health care, housing and social security. The State thus has a duty to progressively realize access to it by public policy and infrastructure development.
4. **Internet Access as a Constitutional Right:** Judicial developments across many jurisdictions indicate a developing recognition of Internet access as a constitutionally guaranteed right. A growing number of courts are recognizing that limitations on Internet access threaten basic rights such as speech, association, trade and privacy.

C. Natural Rights Theory and Internet Access

The natural rights theory is perhaps the oldest and most influential school of jurisprudential thought and is based on the idea that certain rights are natural to humans irrespective of whether the State recognizes such rights or not. Such rights are believed to be universal, unalienable and essential for human existence. Early natural law theorists such as John Locke, Thomas Aquinas, Hugo Grotius and Jean-Jacques Rousseau asserted that States' authority is derived from their responsibility to ensure the protection of these rights.¹⁴

While theorists of natural rights discussed their ideas long before the age of the computer, their theories still provide a sound basis for assessing contemporary assertions of Internet access. The core of natural rights theory is that not only do people have a right to be free,

¹⁴ John Locke, *Two Treatises of Government* (Peter Laslett ed, Cambridge University Press, Cambridge, 1988) 287.

they also have a right to be free to be free – to have the kinds of freedom that allow people to develop, live, and be human. In the digital age, access to information is a condition of being free to be free. For John Locke, freedom was the individual's liberty to know and vote.¹⁵ Today, we access these activities via the Internet. Denying access to the Internet may, therefore, seriously hinder freedom of action as guaranteed under the doctrine of natural rights. More generally, the doctrine of natural rights advocates the sovereignty of the individual and the development of human capacities. As a medium for education, economic enhancement, access to culture and participation in political life, the Internet represents a major step forward for human development, and failure to provide citizens with Internet access may represent a significant limitation upon personal and social development. From this angle, exclusion from the digital realm presents itself as a violation of individual sovereignty and equal liberties.

Contemporary theories of natural rights contend that rights change to reflect changes in social circumstances. If our ancestors recognized there were certain rights that went along with ownership of property or ability to learn or political participation, then we may well have to recognize that there are rights to access digital infrastructure if we are to meaningfully enjoy the former rights.¹⁶

Yet critics warn of the need to temper this growth of natural rights. They contend that technology itself cannot be a natural right, since technologies are so variable. It is suggested that the Internet should in reality be valued as a system for implementing rights.¹⁷ However, from this view even the availability of Internet to the public is of paramount necessity and even though the traditional notion of the natural rights theory does not precisely stipulate the existence of Internet, the notion of liberty, autonomy, equality, and human dignity, which is based on natural rights theory, offers an excellent philosophical basis for the newly emerged rights of the Internet.

¹⁵ *ibid* 323.

¹⁶ John Finnis, *Natural Law and Natural Rights* (2nd edn, Oxford University Press, Oxford, 2011) 198.

¹⁷ Vinton G Cerf, 'Internet Access Is Not a Human Right' (2012) *New York Times*, 4 January 2012.

D. Human Rights Theory and Internet Access

The Human Rights Theory offers the most persuasive normative argument in favor of the right to the Internet. In this context, human rights are a set of rights customaries to all human beings, no matter what their country, ethnicity, religion, sex, or social standing. These unalienable human rights are enshrined in the many human rights treaties ratified by nations and provide the rule of law for modern democratic societies.¹⁸

The dawn of the digital era has revolutionized the way in which human rights are observed and realized. Freedom of expression, access to information, freedom of association, education, employment and participation in political life, all in growing measure, rely on access to digital information and these in turn have come to be intrinsically associated with the right to access to the Internet. Every person has the right to freedom of opinion and expression, including freedom to hold opinions without interference and to seek, receive and impart information through any media regardless of frontiers (Article 19 of the Universal Declaration of Human Rights).¹⁹ Although drafted long before the Internet existed, this provision has been interpreted broadly to encompass digital communication technologies.

Likewise, the ICCPR recognizes the freedom to seek and receive information. More recent authoritative statements from UN human rights bodies recognize that online spaces are modern means of realizing these rights. In this way, limitation of the right of access to the Internet could impact on the enjoyment of human rights under international law.²⁰

The UN Human Rights Council has consistently recognized the necessity of protecting the same rights of individuals online as offline. In its historic Resolution on the Promotion, Protection and Enjoyment of Human Rights on the Internet (2016), the

¹⁸ Jack Donnelly, *Universal Human Rights in Theory and Practice* (3rd edn, Cornell University Press, New York, 2013) 10.

¹⁹ Article 19, Universal Declaration of Human Rights, 1948.

²⁰ Article 19, International Covenant on Civil and Political Rights, 1966.

Council prohibited measures that intentionally prevent and disrupt access to information online.²¹ This resolution thus marks a noteworthy instance in the advancement of international digital rights jurisprudence. Human rights theory also spells forth the principles of universality, equality and non-discrimination. These principles compel States to compensate for digital divides and stay clear of marginalizing groups from the advantages of technological progress. Digital inclusion thus becomes an integral part of modern human rights safeguards. It, therefore, unequivocally supports the call for Internet access that would ensure a meaningful exercise of the rights recognized and protected by law.

E. Information Society Theory

Information Society Theory is a paradigm, which developed as a result of radical changes in society resulting from the use of information and communication technologies. This theory claims that information has become the new resource of the society which has superseded the reliance upon industrial production as the main source of development.

Modern societies, as argued by people like Daniel Bell, Manuel Castells and Yoneji Masuda, are in the process of becoming systematized in terms of information production, dissemination and application.²² Access to information networks therefore becomes a critical determinant of social participation, economic opportunity, and political influence.

The "Network Society" proposed by Manuel Castells is also presented as a powerful argument for the "need" of Internet access. Castells states that "modern power lies in the hands of global networks embedded in a worldwide digital infrastructure". People who have access to this infrastructure have access to communication, education, employment and political participation. People who are not connected are excluded.²³

²¹ United Nations Human Rights Council, The Promotion, Protection and Enjoyment of Human Rights on the Internet, UN Doc A/HRC/RES/32/13 (2016).

²² Yoneji Masuda, The Information Society as Post-Industrial Society (World Future Society, Washington DC, 1981) 29.

²³ Manuel Castells, The Rise of the Network Society (2nd edn, Wiley-Blackwell, Oxford, 2010) 469.

According to Information Society Theory, knowledge and networks are becoming crucial resources in the modern economy. Job opportunities, educational programs, information services on health and government are delivered through digital channels. In this context, poor access to the Internet is an obstacle to keeping up with the pace of the society. The theory also introduces the term "digital divide", namely the disadvantageous situations in accessing modern information and communication technologies based on income, place of residence, education level, gender and social class. This digital divide has a series of serious consequences in equality of opportunities and social justice especially in the developing countries. From such a sociological perspective, achieving comprehensive access to the Internet is far beyond a matter of technological ease of use, and indeed it is a strategic issue for development and democracy.

F. Social Contract Theory and Digital Citizenship

The Social Contract Theory deals with the relationship of the individual with the State; classical theorists such as Thomas Hobbes, John Locke and Jean-Jacques Rousseau have claimed that the legitimacy of the government stems from a sort of tacit agreement between the members of a society. In return for their obedience to a legitimate authority, individuals are afforded protection of their inalienable rights and interests.²⁴

In modern democratic societies, citizenship involves more than physical involvement in public institutions. New opportunities for civic participation, public debate and political engagement emerge with advances in digital technology. Thus, scholars tend to use the term 'digital citizenship'. Digital citizenship can be defined as the possibility for citizens to participate in social, political and economic activities efficiently through digital environments. Public services, electoral information, national consultations, education programmes and also courts are more and more conducted in digital formats. Therefore, an individual citizen's access to the Internet could arguably be considered integral to participation in contemporary civic life. From a social contract standpoint, it is the Duty

²⁴ Jean-Jacques Rousseau, *The Social Contract* (Maurice Cranston tr, Penguin Books, London, 1968) 60.

of the State to guarantee adequate opportunities for citizens to engage in public affairs. If the functions of government are migrated into digital channels, denial of Internet access might result in a failure of democratic participation and a fragile institutional legitimacy. Moreover, social contract theory ensures the role of the state as a regulator of civil liberties. Public shutdowns, overreach of the surveillance apparatus and unjustifiable restrictions of Internet access should be scrutinized to measure upholding of democratic values. Thus, the theory contributes to establish a link between modern digital rights and the traditional idea of citizenship.

V. DIGITAL CONSTITUTIONALISM

Digital technologies have brought about a radical transformation in traditional conceptions of constitutional governance. While modern constitutional law evolved primarily in order to discipline the relationship between the State and its citizens, and safeguard fundamental rights and freedoms against arbitrary State power, the digital revolution has brought about new actors, new forms of power and new problems that went beyond the set of issues addressed by traditional constitutional paradigms. As a way of response to this arrival of the digital age, scholars have coined the term "Digital Constitutionalism".

Digital Constitutionalism is the use of constitutional values and principles and their implementation in the digital environment. It attempts to keep alive the fundamental rights, democratic governance, rule of law, accountability, transparency and human dignity in cyberspace.²⁵ This notion acknowledges that, due to the significant role played by digital technologies in contemporary social, political and economic spheres, there is a need for constitutional protection to be extended to the digital world.

²⁵ Giovanni De Gregorio, *Digital Constitutionalism in Europe* (Cambridge University Press, Cambridge, 2022) 12.

Jack Balkin maintains that in the information society, constitutional principles must be flexible.²⁶ In Balkin's view, freedom of expression, privacy, equality, and democratic participation must be refashioned in this network environment. These fundamental constitutional rights cannot be confined to the geographical locations of the physical world: significant aspects of life now take place via computers and networks.

Digital Constitutionalism emphasizes several core principles:

1. **Protection of Fundamental Rights in Cyberspace:** The first principle: rights that exist offline, must still apply online: ensure freedom of speech, freedom of association, privacy, information access, and process rights are protected online to the same extent they are offline.
2. **Limitation of State Power:** Digital Constitutionalism also recognizes that governments are armed with a host of technological powers, empowering them to monitor so much of the world, collect such data about it, and shape its communication networks, that constitutional constraints are needed.
3. **Regulation of Private Digital Actors:** Different from classical constitutional theory, Digital Constitutionalism recognizes the powerful role of private technology corporations in shaping public discourses. Any social media platform, search engine, or digital service provider has the power to decide who will gain access to information and communication. Therefore, constitutional values might be relevant to regulate also the conduct of private digital actors.
4. **Internet Access as a Constitutional Necessity:** Digital Constitutionalism broadens the scope of the debate in asserting that the Internet is the political and social environment needed to effectively enjoy constitutional freedoms. There are contexts where access to democratic participation, public services, education,

²⁶ Jack M Balkin, 'The Future of Free Expression in a Digital Age' (2018) 36 Pepperdine Law Review 427, 432.

and economies requires digital connectivity; thus, lack of access can breach the constitutional realization.

The theory has found growing relevance in India. Indian judicial pronouncements such as *Anuradha Bhasin v. Union of India* and *Faheema Shirin v. State of Kerala* reflect the willingness of India to interpret constitutional rights by considering the technological era in which we presently find ourselves.²⁷ Such rulings are indicative of an emerging constitutional framework in which digitally-mediated connectivity is deemed crucial to the performance of fundamental rights. Digital Constitutionalism thus offers a jurisprudential paradigm for acknowledging Internet access as a fundamental aspect of twenty-first century constitutional rule.

A. Human Dignity and the Right to Internet

Today human dignity features prominently in both modern constitutional and human rights jurisprudence. It functions as the philosophical underpinning of many rights and freedoms provided for by their national constitutions and international documents. It connotes the intrinsic value of each human being and the social conditions necessary for human flourishing, autonomy, and engagement in communal life.²⁸

The connection of human dignity to access to the Internet has become increasingly relevant in a digital age. Today, human society depends upon digital technologies for communication, education, work, healthcare, government, and cultural involvement. Therefore, lack of access to digital networks could compromise a person's capacity to live with dignity.

Human dignity encompasses several dimensions directly connected to Internet access:

²⁷ *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637; *Faheema Shirin RK v. State of Kerala*, AIR 2020 Ker 35.

²⁸ Christopher McCrudden, 'Human Dignity and Judicial Interpretation of Human Rights' (2008) 19 *European Journal of International Law* 655, 658.

1. **Access to Knowledge:** The Internet offers unparalleled access to information and learning. Education, research, government publications, and speech on issues of public policy are made available on-line more and more often. Refusal to allow use of the Internet might then deny individuals access to the benefits of education and enlightenment.
2. **Personal Autonomy:** Respecting the dignity of the individual also means respecting our autonomous choice and self-determination. Freedom of access to the Internet enables people to communicate, exchange ideas and opinions, maintain networks of economic and social activities essential for mobility and recovery.
3. **Social Inclusion:** Engagement in contemporary society also hinges upon access to digital life. Without Internet access, a person might be cut off from educational programs, employment and government services, and interaction with their community. Such exclusion could impact on the perpetrator's standing and sense of dignity.
4. **Democratic Participation:** Ensuring human dignity can be a matter of providing access to the political process as well. Digital spaces have become vital sites for political discourse, public participation and democratic accountability, thus access to digital spaces can be crucial for active citizenship. A handful of constitutional courts have recently identified human dignity as a constitutional value that ties to various digital rights. Human rights scholarship of today also acknowledges that digital inclusion has become an element of social justice and human development.²⁹ Thus, guaranteeing access to the Internet seems more and more needed to protect human dignity in contemporary societies.

²⁹ Aharon Barak, *Human Dignity: The Constitutional Value and the Constitutional Right* (Cambridge University Press, Cambridge, 2015) 112.

B. Internet Access as an Emerging Fundamental Right

New rights emerge, as a natural part of the evolution of the constitutional order. Rights that have not found constitutional recognition to date, such as the right to privacy, the right to education and the right to a clean environment, have gradually gained recognition through judicial decisions and legislation. Ways in which this has occurred can be shown in relation to access to the Internet. Several factors explain why access to the Internet may be said to be an emerging fundamental right.

First, access to the Internet enables the enjoyment of a number of grounds for constitutional protection, such as freedom of expression, freedom of association, right to practice a trade and profession, right of access to information and right of participation in democratic processes. Second, adoption of the Internet for the provision of the State's public services has made access to the Internet a matter of practical necessity. Citizens increasingly require access to the Internet in order to acquire public services such as education, health care, banking and the enforcement of judicial remedies. Third, the recognition of access to the Internet by international human rights bodies suggests that some virtual connectivity may be recognized as a fundamental right. There is no human rights convention yet recognizing the right of access to the Internet as an independent one. However, there have been attempts worldwide to acknowledge access to the Internet as a requirement for the enjoyment of found rights.³⁰

The judicial expansion of fundamental rights in many jurisdictions is reflective of a broader jurisprudential development whereby courts have consistently challenged the imposition of limits to Internet access and have underscored the importance of Internet freedoms in modern democracies. In the Indian context, progressive judicial rulings on Internet rights echo the wider jurisprudential trend of the court giving a wide ambit to fundamental rights under Article 21. The Indian Supreme Court has traditionally given

³⁰ United Nations Human Rights Council, The Promotion, Protection and Enjoyment of Human Rights on the Internet, UN Doc A/HRC/RES/32/13 (2016).

a responsive construction to the provisions of the Constitution so as to make them relevant to the changed realities of the society. Given the increasing importance of digital connectivity, basic rights to access of Internet may be viewed as a logical extension of these jurisprudential attitudes.

However, the precise legal classification of Internet access is yet to be conclusively laid down. While some advocates argue for the recognition of a separate fundamental right, others suggest a derivative fundamental right for Internet access, a right which is crucial for enjoying other fundamental freedoms. Irrespective of the ultimate classification, there is clear emerging consensus on the importance of constitutional guarantee of meaningful digital access.

C. Critical Evaluation of Competing Theories

The theories examined in this chapter collectively assist in explaining the legal significance of Internet access. Natural Rights Theory emphasises liberty, personal autonomy, and human development, thereby providing a philosophical basis for treating digital access as a necessary condition for the meaningful exercise of freedom in contemporary society. Human Rights Theory keeps pointing to how Internet connectivity supports rights and freedoms that are already widely recognized on an international level. Information Society Theory then kind of shows, almost insistently, that information networks sit at the center of modern social and economic life. Social Contract Theory highlights the State's obligation to enable citizens to participate meaningfully in democratic processes that are increasingly mediated through digital platforms. Digital Constitutionalism, more modern and more specific, offers a framework to map constitutional principles onto digital contexts.

Despite their distinct theoretical foundations, these approaches converge on the proposition that digital connectivity has become essential, rather than optional, for effective participation in contemporary society. Together they back the idea that Internet access ought to get strong legal safeguards. However, caution must be exercised before characterising every technological development as a fundamental right. If everything

becomes a right, the “weight” of constitutional rights can get thinned out, at least in a normative sense. So, any recognition of Internet access should really be tied not to the technology itself, but to what it does for human dignity, equality, liberty, and democratic participation.

The conceptual and theoretical analysis undertaken in this chapter demonstrates that the right to Internet access has emerged as one of the significant legal issues of the digital era. Even if traditional constitutional frameworks didn’t really imagine digital connectivity, today’s social realities keep pushing us to rethink how technology links with fundamental rights, and how that plays out in practice.

Natural Rights Theory, Human Rights Theory, Information Society Theory, Social Contract Theory, and Digital Constitutionalism each bring something useful to the evolving status of Internet access. Together, these approaches indicate that digital connectivity is no longer only a technological convenience, it has turned into an essential condition for actually exercising many rights and freedoms in a real sense.

The chapter also makes clear that Internet access matters a lot for human dignity, personal autonomy, social inclusion, democratic involvement and socio- economic development. So, when there are restrictions on Internet access, the consequences can go beyond inconvenience and may seriously affect constitutional governance and human rights protection, as a whole. Scholars still argue about whether Internet access ought to be treated as an independent right, or instead as a right that is derived from other protections. Still, there seems to be a broader agreement that meaningful digital connectivity deserves strong legal safeguarding, not just symbolic recognition. The way constitutional jurisprudence is evolving, along with international human rights standards, and a range of comparative legal developments, increasingly points to that same direction.

After laying out the conceptual and theoretical foundations of the Right to Internet, the next chapter will look at the international legal framework that governs Internet access and related digital rights. It will focus on international human rights instruments, United

Nations initiatives, and emerging global standards tied to digital freedom and connectivity.

VI. INTERNATIONAL LEGAL FRAMEWORK GOVERNING THE RIGHT TO INTERNET

The proliferation of digital technologies has rendered the Internet one of the most important tools for communication, access to information, economic growth, and democratic participation in the modern world. While the international community did not have the infrastructure necessary to make the Internet a reality when the founding documents of international human rights law were written, the principles set out in those documents have proved sufficiently flexible to adapt to the new challenges of the digital age. The international framework of law protecting the Right to Internet has been formed by the interpretation of human rights treaties, General Assembly resolutions, case law, and policy initiatives seeking to promote universal access to the digital world.

The growing sense that modern human rights cannot be fully realized without digital connectivity is inextricably intertwined with the development of the international legal framework of rights to Internet access. Accordingly, human rights like freedom of expression, right of access to information, right to participate in government, right to education, right to enjoy culture and right to benefit from scientific progress have been reinterpreted to include the right to Internet access. It is therefore not a single treaty but a host of international legal instruments, efforts of the United Nations, and caselaw that have come together over time to develop a framework of internationally recognized legal rights protecting Internet access. This framework demonstrates a growing worldwide consensus on the importance of Internet access in promoting human dignity, democracy and sustainable development.

A. Universal Declaration of Human Rights, 1948 and the Foundation of Digital Rights

The UDHR, ratified by the UN General Assembly in 1948 is the foundation stone of contemporary international human rights architecture. While written long before the advent of the Internet (in 1948), the Declaration contains a number of principles which offer the normative underpinnings for today's debate on digital rights. Despite the advances made in information technology since 1948, the fundamental tenets of the UDHR remain broad enough to cope with new technological circumstances and remain relevant to human rights in the Internet age.³¹

All the articles in the Declaration, none are more pertinent to the issue of access than Article 19. It affords the right to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. The use of the phrase "through any media" has taken on special significance in the modern era, as it has allowed the potential for a dynamic interpretation which can accommodate new mediums of communication, such as the Internet. Increasingly, international human rights bodies and commentators have come to read Article 19 as protecting online and digital communication.³²

The importance of Article 19 should not be limited to the context of protection of expression but extended to the fact that the Internet provides one of the most important means of access to information in modern times. In the modern information age where the Internet is arguably the single most important tool for creation, dissemination and sharing of information, denial to access of Internet can arguably be linked to denial from realization of rights envisaged under Article 19. The denial of access to the Internet can arguably be linked to denial from these rights.

Article 26 of the UDHR, which acknowledges the right to education, assumes increasing significance in the context of access to Internet, as educational content is increasingly being imparted through the Internet, by moving it to an online platform, thereby making

³¹ Universal Declaration of Human Rights, adopted by UNGA Res 217 A (III), 10 December 1948.

³² Toby Mendel, *Freedom of Information: A Comparative Legal Survey* (UNESCO, Paris, 2008) 17.

it a definitive tool for realization of educational rights. The COVID19 pandemic has once again reiterated this. On such a realistic issue today, students who do not have access to the Internet are at a clear disadvantage for the acquisition of knowledge. Consequently, the Internet has become inextricably linked to the realization of the right to education.³³

In a similar vein, Article 21 of the Declaration upholds the right of everyone to take part in the government of their country. Today, digital technologies and services are playing an ever-growing role in promoting political participation, fostering public consultation, engaging in electoral processes and constituting issues in discussions of politics. Viewed in this light, access to the Internet vastly increases the enjoyment of rights and freedoms in the political sphere. In the same way, Article 27 recognizes the right of everyone to take part in cultural life and enjoy the benefits of scientific progress. Digital technologies are now fundamental tools in the promotion of cultural exchange, scientific research and technological innovation. The Internet allows people to engage with cultural products, take part in artistic activities and share scientific progress on a global scale. This said, while the UDHR does not explicitly address the issue of Internet access, many of its articles provide a normative underpinning to the accessibility to digital rights. Today, many contemporary readings of the Declaration have begun to assert that real enjoyment of many of its rights depend on access to the technologies of digital communication. Accordingly, the UDHR remains a key document in the international debate on the legal status of Internet access and digital inclusion.

B. International Covenant on Civil and Political Rights, 1966

The International Covenant on Civil and Political Rights (ICCPR) is one of the most important legally enforceable human rights instruments adopted by the United Nations General Assembly in 1966. Entered into operation on 23 March 1976; it, along with the Universal Declaration of Human Rights and the International Covenant on Economic,

³³ United Nations Educational, Scientific and Cultural Organization (UNESCO), *Global Education Monitoring Report 2023* (UNESCO Publishing, Paris, 2023) 41.

Social and Cultural Rights constitutes the [International] Bill of Rights." Although predating the Internet, the Covenant has gained increasing importance in juris-prudence with regards to legal questions arising in a digital context. The new juris-prudence concerning rights protected by the ICCPR now stipulates that they must be respected and protected, regardless of the medium in which individuals communicate.³⁴

The many provisions in the Covenant, Article 19 is fundamental to the jurisprudence of international digital rights. Article 19 affords the right to freedom of opinion and expression and protects each individual's right to seek, receive and impart information of all kinds and through any media of their choice. The generality of articulation of the Covenant has made it adaptable to new communication technologies such as the Internet. As a result, international human rights bodies have read the Covenant as extending to online speech and digital communication.³⁵

The significance of Article 19 has increased substantially in the digital era, as the Internet has become a principal medium for the dissemination of information, ideas, and opinions. Social media platforms, online newspapers, learning websites, and digital discussion boards have turned into key places for public dialogue. So if someone limits Internet access, that can directly mess with freedom of expression and also with the ability to reach information. The Human Rights Committee, the body that tracks how the ICCPR is put into practice, has said that States should encourage universal access to the Internet. They also should not set arbitrary limits that erode freedom of expression, in a kind of undermining way.³⁶

Article 25 of the Covenant sort of continues and strengthens the relationship between Internet access and democratic participation. It essentially makes sure that citizens have the right to take part in public affairs and, well, to be involved in the running of

³⁴ International Covenant on Civil and Political Rights, adopted 16 December 1966, 999 UNTS 171.

³⁵ Manfred Nowak, UN Covenant on Civil and Political Rights: CCPR Commentary (2nd edn, NP Engel Publishers, Kehl, 2005) 458.

³⁶ Human Rights Committee, General Comment No 34, Article 19: Freedoms of Opinion and Expression, UN Doc CCPR/C/GC/34 (2011) para 15.

government. In today's democratic societies, digital platforms are more and more used for political communication, public consultations, electoral campaigning, and general civic engagement. So, what happens is meaningful participation in public affairs often depends on having access to digital communication technologies. When Internet access is denied, it can then hinder the opportunities for political participation, and even broader democratic engagement too.

The ICCPR also defends freedom of association and peaceful assembly under Articles 21 and 22. Modern social movements frequently lean on digital platforms to get organized, coordinate activities, and keep communication flowing. Online forums and social networking services let people form associations, share collective views, and mobilize backing for various causes. In that sense, limits on Internet access may not only limit personal expression, but also interfere with collective democratic action. The way the ICCPR is being interpreted shows how international human rights law can adapt to technological changes. Even if the Covenant does not clearly spell out a "Right to Internet", its terms still give meaningful legal grounding for protecting digital freedoms and access to communication networks. Because of that, the Covenant basically acts as a basic framework in shaping international standards about Internet access and online rights.

C. International Covenant on Economic, Social and Cultural Rights, 1966

The International Covenant on Economic, Social and Cultural Rights (ICESCR) sort of complements the ICCPR by picking out rights that are needed so social justice, human development, and economic well-being can actually be achieved. It was adopted in 1966, and it started operating 1976, and from there the Covenant puts obligations on States to move, bit by bit, toward realizing economic, social, and cultural rights via fitting legislative, plus policy, steps.³⁷

³⁷ International Covenant on Economic, Social and Cultural Rights, adopted 16 December 1966, 993 UNTS 3.

The ICESCR's relevance for Internet access comes from the fact that many socio-economic rights now lean on digital connectivity more and more. Things like education, employment, healthcare, scientific research, cultural participation, and even access to public services, are increasingly tied to Internet based technologies. So if someone gets locked out digitally, this can seriously block the realization of rights the Covenant protects. Article 13 of the ICESCR recognizes the right to education, and it stresses that education should be reachable by everyone. In today's education models Internet connectivity ends up being a big lever for getting learning materials, virtual classrooms, academic work, and distance learning programmes. During the COVID-19 pandemic there was a fast turn toward online education, and that moment made it obvious that digital infrastructure is indispensable for keeping education going. Learners without Internet access often run into sharp disadvantages in their studies, and that kind of outcome points right back to how closely digital inclusion is linked with educational fairness.³⁸

Article 15 of the Covenant recognizes that every person should be able to enjoy the benefits coming from scientific progress, and those benefits in practice, including its applications. This has started to matter more and more in the digital era, because the Internet is one of the most visible products of scientific and technological advancement. When people can access digital technologies, they can actually benefit from innovations in communication, health care, learning, and trade. And so, if someone faces obstacles reaching the Internet, then their chances to enjoy those benefits also the ones recognized in international law can get badly reduced. The Covenant also deals with rights tied to work, social security, and a standard of living that is adequate. Digital technologies have changed labour markets and many economic activities across the globe. Job possibilities, professional preparation, small business activity, and even ordinary commercial dealings often now rely on being connected online. Because of this, access to the relevant digital

³⁸ Committee on Economic, Social and Cultural Rights, General Comment No 13, The Right to Education (1999) para 6.

infrastructure becomes a direct input to economic empowerment, and also to wider social development.

The Committee on Economic, Social and Cultural Rights has often stressed that states should help secure fair access to technological resources, and reduce the gaps that come with digital exclusion. These approaches, in turn, suggest a growing view that actually delivering socio economic rights today increasingly depends on having meaningful Internet access. In light of all that, ICESCR offers a solid legal basis to see Internet access as something developmental, almost like a necessity that links closely with economic, social, and cultural rights. The Covenant, it's true, does not set out a separate, standalone Right to Internet in clear terms, but its provisions still give strong support for governmental duties aimed at encouraging digital inclusion and making technology more accessible.

D. United Nations Human Rights Council Resolutions on the Internet

One of the most significant developments in how international digital rights have been evolving, has been the adoption of several resolutions by the United Nations Human Rights Council, dealing with the protection of human rights on the Internet. Those resolutions are kind of key normative statements, that show a growing shared view in the international community, about how digital connectivity really matters for enjoying human rights.³⁹ The Human Rights Council first tackled Internet-related rights in a more complete way, via its 2012 Resolution on the Promotion, Protection and Enjoyment of Human Rights on the Internet. In that resolution, it basically affirmed that the same human rights people have offline, must also be protected online. That point was a kind of landmark in international human rights jurisprudence, because it more or less said clearly that established human rights principles still apply, even within digital environments.

³⁹ United Nations Human Rights Council Resolution 20/8, The Promotion, Protection and Enjoyment of Human Rights on the Internet (2012).

After that, the Council reinforced the approach through later resolutions adopted in 2014, 2016, 2018, and subsequent years. One of the weightier steps was the 2016 Resolution, which condemned without any ambiguity measures that intentionally block or interrupt access to information online, in a way that violates international human rights law. The Council also expressed real concern about Internet shutdowns and it stressed the need to promote universal access to digital communication technologies.⁴⁰

The resolutions further encourage States to address barriers to Internet access and to facilitate digital inclusion. Special emphasis is placed upon reducing inequalities affecting women, children, persons with disabilities, rural communities, and other marginalized groups. The Council recognizes that meaningful participation in contemporary society increasingly depends upon digital connectivity and therefore regards universal Internet access as an important policy objective. Although Human Rights Council resolutions are not legally binding in the same manner as treaties, they possess considerable normative value. They influence the interpretation of international human rights obligations, guide State practice, and contribute to the development of customary international norms. Consequently, these resolutions play a significant role in shaping the emerging international consensus regarding the legal importance of Internet access.

VII. THE FRANK LA RUE REPORT AND THE RECOGNITION OF INTERNET FREEDOM

A landmark contribution to the international discourse on Internet rights came out through the 2011 report submitted by Frank La Rue, the United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and

⁴⁰ United Nations Human Rights Council Resolution 32/13, The Promotion, Protection and Enjoyment of Human Rights on the Internet (2016).

Expression. That report is often treated as one of the most influential documents in shaping global digital rights jurisprudence.⁴¹

La Rue underlined that the Internet has, basically, turned into an essential instrument for advancing different human rights and encouraging democratic participation. In the account, it says that the Internet's distinct features let people carry out freedom of expression, reach information, trade ideas, and join in public conversation on a scale that's kinda unprecedented. Because of this, limits on Internet access can end up disturbing several human rights, all at once, not just one.

The report also issued a strong criticism of arbitrary Internet shutdowns and those network disruptions. The reasoning was that these steps are rarely aligned with international human rights standards. La Rue pointed out that blocking whole communication systems tends to create disproportionate impacts, mainly by hitting large numbers of individuals who actually aren't connected with any unlawful activity. So he pushed governments to make sure any restrictions on digital communication follow legality, necessity, and proportionality ⁴²

One of the more important parts of the report was its acknowledgement of Internet access as a kind of enabler for economic, social, and political development. La Rue argued that governments have positive duties to promote universal Internet access and to narrow, or bridge, digital divides affecting marginalized people. The report basically insists that when people can get online, it supports not only freedom of expression but also education, healthcare, cultural participation, and economic opportunity. And the impact of the Frank La Rue Report goes well past the United Nations system. Courts, researchers, policymakers, and civil society organizations regularly lean on its principles when they deal with questions about Internet freedom and digital rights. Even now, the report stays

⁴¹ Frank La Rue, Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, UN Doc A/HRC/17/27 (16 May 2011).

⁴² *ibid* paras 78–89.

among the most authoritative international statements for the idea that Internet access has become essential, for the real enjoyment of human rights, in the modern world.

A. Sustainable Development Goals (SDGs) and Digital Inclusion

The Sustainable Development Goals, usually called the SDGs, were adopted by the United Nations in 2015, as part of the 2030 Agenda for Sustainable Development. In general, these goals try to encourage economic progress with social inclusion and environmental protection. Even though the SDGs do not actually spell out a specific Right to Internet, digital connectivity still matters a lot for reaching many of the targets, it acts kind of like an enabler.⁴³

Internet access kind of tangles up with quality education, gender equality, decent work, innovation, and also the reduction of inequalities. Digital technologies let people reach educational materials, employment possibilities, healthcare services, and even government initiatives. In rural as well as remote areas, Internet connectivity can actually shrink the distances that matter, bridging gaps in development, and making it easier to tap into essential services. The United Nations has, more than once, underlined how digital inclusion, together with affordable Internet access, is needed for sustainable development to happen. So, universal Internet connectivity is now often seen as a practical mechanism for encouraging inclusive growth, and promoting social justice, too.

B. Role of the International Telecommunication Union (ITU)

The International Telecommunication Union (ITU) is sort of a specialized agency of the United Nations, responsible for information and communication technologies, yes. The ITU plays an important role in promoting global connectivity and also in reducing the digital divide between developed and developing countries.⁴⁴

More or less, the organization helps countries build up telecommunications infrastructure and extends Internet services, bit by bit. It promotes affordable access to

⁴³ United Nations, *Transforming Our World: The 2030 Agenda for Sustainable Development* (2015).

⁴⁴ Constitution and Convention of the International Telecommunication Union, 1992.

digital technologies, and it backs policies that are meant to increase connectivity in remote rural areas and other regions that are underserved, even if resources are limited. Through different programmes and practical initiatives, the ITU has helped the growth of Internet access around the world. Its efforts show how more and more people internationally are recognizing that digital connectivity is essential for economic and social progress.

C. Emerging International Consensus on the Right to Internet

In recent years, there's been an increasing global awareness about how important Internet access is. Governments, international organizations, courts, and civil society groups broadly agree that digital connectivity is really needed for many human rights to be used in practice. The Internet is now a main channel for communication, learning, trade, administration, and also political participation. Because of that, limits on Internet access can end up touching several rights such as freedom of expression, the ability to get information, education, and involvement in public matters. Even if there is no strict international treaty that says Internet access is a fundamental right, the legal shifts in international law show more and more backing for protecting it. The focus seems to have moved, from treating the Internet like some extra comfort, to seeing it as a necessity in today's life.

This growing agreement also points to what States have to do, meaning they should work to make Internet services affordable and accessible. At the same time, any limits should be put in place only as the law allows and in line with human rights ideas. The international legal structure connected with the "Right to Internet" has changed a lot during the last twenty years. While there isn't any international treaty that clearly and directly recognizes Internet access as a separate standalone right, many international instruments still give a solid basis for protecting it. The Universal Declaration of Human Rights, the ICCPR, and the ICESCR back up rights that people increasingly use through digital platforms. UN resolutions and reports have also kept stressing that the same rights people have offline should also be safeguarded online.

International bodies like the United Nations and the International Telecommunication Union have pushed governments to widen digital connectivity and shrink the gaps in access to technology. Still, multiple countries have already acknowledged the significance of Internet access through laws, constitutional wording, and court rulings. So overall, the international legal framework shows a steady recognition that Internet access is linked with human dignity, liberty, equal treatment, education, and democratic participation. All these steps can offer useful help for countries such as India, when they are designing legal and policy tools for digital rights, and for Internet access in particular.

VIII. CONSTITUTIONAL DIMENSIONS OF THE RIGHT TO INTERNET IN INDIA

The Constitution of India does not really spell out an explicit Right to Internet as a fundamental right. Still, with technological improvements and our rising dependence on digital communication, the Internet has gradually become sort of a non-optional part of everyday life. Connectivity now matters for education, healthcare, government services, banking, business chances, even routine social interaction. So, in a way, the constitutional guarantees tucked under Articles 14, 19, and 21 have taken on newer meanings in the digital era.⁴⁵ Meanwhile, Indian courts have leaned toward a more forward-looking method in reading fundamental rights, and they have widened the reach of those protections to handle present day problems. Because Internet access has become so central, courts have started to recognize how it links with freedom of speech, learning, privacy, commerce, and personal liberty.

A. Right to Equality under Article 14

Article 14 assures equality before the law, and also equal protection of the laws. But, in the digital age, Internet access has turned into one of the key things for giving citizens a real chance at equal opportunity. Things like learning materials, job openings, e-

⁴⁵ M.P. Jain, *Indian Constitutional Law* (9th edn, LexisNexis, Gurugram, 2023) 1423.

governance services, and even digital payment systems are now easier to reach through online platforms. So, when Internet services are not available equally, it can very much feed social as well as economic gaps.⁴⁶ About the digital divide, it basically points to uneven access to technology across regions and different communities. People in rural areas, groups that are economically less well off, and those who are often sidelined usually struggle to get dependable Internet services. Because of that, the constitutional aim of reaching substantive equality, and inclusive development may get disturbed.

B. Freedom of Speech and Expression under Article 19(1)(a)

Article 19(1)(a) basically ensures freedom of speech and expression to all citizens, full stop. Nowadays, the Internet has ended up being one of the most important places for communication and sharing of information. Social media platforms, blogs, digital news portals, and online discussion forums let people put across their views and take part in public talks.⁴⁷ The Supreme Court has time and again stressed how vital free expression is for a democratic setup. Since the Internet works as a main channel for communication, any block or restriction on Internet access can easily hit the ability to exercise freedom of speech and expression. So, even if someone wants to limit access online, that limitation has to align with the constitutional conditions laid down in Article 19(2).⁴⁸

C. Freedom of Trade and Profession under Article 19(1)(g)

With the rise of the digital economy, businesses and professionals seem to be relying more and more on Internet connectivity. Stuff like e-commerce, online banking, digital marketing, working remotely, and electronic delivery of services has practically become part of everyday economic life. Because of this, being able to access the Internet really matters for enabling the freedom to practice a profession, or to carry on some occupation, trade, or business as protected under Article 19(1)(g).⁴⁹ Also, when the Internet goes

⁴⁶ Constitution of India, Art 14.

⁴⁷ Constitution of India, Art 19(1)(a).

⁴⁸ *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

⁴⁹ Constitution of India, Art 19(1)(g).

down, or connectivity is disrupted, it can mess up commercial dealings and economic activities, especially in areas that depend a lot on digital platforms. So yeah, Internet access has taken on a lot of weight, not just for economic freedom but for keeping business continuity on track too.

D. Right to Life and Personal Liberty under Article 21

Article 21 basically says that no person should be deprived of life or personal liberty, unless it is done in line with the procedure established by law. Over time, courts have given this provision a wider reading, and it now covers those entitlements that are needed for living with dignity.⁵⁰ These days, Internet access is kind of intertwined with education, job opportunities, medical care, and also everyday social involvement. Many people, in practice, rely on digital technologies for both personal growth and professional progress. So, in the bigger picture, getting access to the Internet really helps in achieving a dignified life and staying able to take part in society in a meaningful way.⁵¹

E. Right to Privacy and Digital Rights

The recognition of privacy as a fundamental right in *Justice K.S. Puttaswamy v. Union of India* marked a decisive development in Indian constitutional jurisprudence. The Supreme Court held that privacy is intrinsic to life and personal liberty under Article 21 and includes informational privacy. In the digital era, this principle has direct relevance because access to the Internet necessarily involves the generation, collection, storage, and processing of personal data by State agencies, private platforms, financial institutions, telecom service providers, and other digital intermediaries.⁵²

India's data protection framework has now been substantially strengthened through the Digital Personal Data Protection Act, 2023. The Act provides for the processing of digital personal data in a manner that recognises both the right of individuals to protect their

⁵⁰ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

⁵¹ *Faheema Shirin R.K. v. State of Kerala*, AIR 2020 Ker 35.

⁵² *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

personal data and the need to process such data for lawful purposes. It applies to digital personal data collected online, as well as offline data that is later digitised, and also extends to processing outside India where goods or services are offered to individuals within India.

The Digital Personal Data Protection Rules, 2025, notified by the Government of India on 14 November 2025, operationalise the Act by prescribing procedural and compliance mechanisms. The Rules provide for phased implementation, including an 18-month compliance timeline for organisations, and contain requirements relating to notice, consent, data fiduciary obligations, children's data, personal data breach intimation, and the functioning of the Data Protection Board of India.

Accordingly, meaningful Internet access cannot be understood merely as physical or economic connectivity. It must also be accompanied by legal safeguards that protect individuals against unauthorised collection, misuse, excessive processing, data breaches, and opaque digital governance. The DPDP Act, 2023 and DPDP Rules, 2025 therefore operationalise the privacy protections that are necessary for a rights-based model of Internet access. However, the effectiveness of this framework will depend on robust enforcement, institutional independence, public awareness, accessible grievance redressal, and its ability to protect vulnerable users who may lack digital literacy or bargaining power in online environments.

The constitutional framework of India provides a pretty solid base for safeguarding Internet-related rights, though it kind of goes on without saying a "Right to Internet" directly. Still, when Courts read Articles 14, 19, and 21 together, digital access seems tied in with equality, liberty of thought, speech, commerce and more, plus privacy, and personal freedom. As people become more and more reliant on digital technologies, it's likely that Internet access will keep turning into a bigger part of the constitutional and legal arena in India.

IX. JUDICIAL RECOGNITION OF THE RIGHT TO INTERNET IN INDIA

The Indian judiciary has played a big role in expanding the scope of fundamental rights, and also in adjusting constitutional ideas to evolving social and technological realities. Even if the Constitution does not directly, outright, say there is a “Right to Internet”, the courts have been increasingly recognizing that digital connectivity matters a lot for how different constitutional freedoms can actually be used. Court decisions linked to freedom of expression, privacy education and the ability to reach information have, little by little, helped shape what people now call internet related rights in India.⁵³ And as dependence on digital tools keeps growing, courts have had to deal with things like internet shutdowns, expression online, privacy questions, and the question of digital access. From a chain of landmark judgments, Indian courts have repeatedly stressed that constitutional rights cannot become hollow in the digital era.

A. *Shreya Singhal v. Union of India* (2015)

One of the most important decisions about digital rights in India is *Shreya Singhal v. Union of India*. Here, the Supreme Court looked into whether Section 66A of the Information Technology Act, 2000 was constitutionally valid or not. That provision essentially made it an offence to send messages that were offensive or just annoying through electronic communication. The Court said Section 66A couldn’t stand, because it interfered with the freedom of speech and expression that people have under Article 19(1)(a) of the Constitution. The Court also pointed out that when limits are vague, and overly broad, they can create a chilling effect on free expression. So, in the end Section 66A was removed, as unconstitutional.⁵⁴ This decision is seen as a landmark one since it boosted the protection given to online speech, and it also reaffirmed that constitutional liberties apply, basically in equal measure, to digital spaces too.

⁵³ M.P. Jain, *Indian Constitutional Law* (9th edn, LexisNexis, Gurugram, 2023) 1458.

⁵⁴ *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

B. Justice K.S. Puttaswamy v. Union of India (2017)

The way privacy was recognized as a basic right in *Justice K.S. Puttaswamy v. Union of India* really changed how digital rights are argued in India. The Supreme Court, all of them together, found that the right to privacy is part of life, and personal liberty, under Article 21 of the Constitution. The Court also talked about how privacy isn't just a general idea but it covers informational privacy, and the safeguarding of personal data, too. And in today's world, when people are constantly engaging through digital platforms, the judgment sort of underlines why citizens need protection from unauthorized surveillance, and from the misuse of personal information.⁵⁵

C. Faheema Shirin R.K. v. State of Kerala (2020)

The Kerala High Court, in a notable decision in *Faheema Shirin R.K. v. State of Kerala*, looked at Internet access in a way that really matters. The petitioner had challenged certain restrictions placed by a college hostel, basically a rule that stops students from using mobile phones and Internet services during specified hours. The Court said that getting access to the Internet is not a small thing, rather it is tied in with the right to education, and also with privacy, both flowing under Article 21. The Court also noted that today's learning is not really standalone anymore, modern education leans on digital materials, plus online learning platforms, almost all the time. So, if the restrictions are unreasonable, they can undercut educational chances, and even shape how a person grows personally and intellectually.⁵⁶

D. Anuradha Bhasin v. Union of India (2020)

The decision in *Anuradha Bhasin v. Union of India* feels like a kind of big, turning point in Indian digital rights case law. It came out of restrictions on Internet services in Jammu and Kashmir, after a mix of constitutional and administrative shifts in that area. The Supreme Court said, more or less, that freedom of speech and expression, plus the

⁵⁵ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

⁵⁶ *Faheema Shirin R.K. v. State of Kerala*, AIR 2020 Ker 35.

freedom to carry on any profession through the Internet, get constitutional cover under Article 19. The Court also pointed out that you cannot keep Internet services blocked for a long while, and any such restriction has to clear certain boxes like legality, necessity and proportionality, not just vibes.⁵⁷ And the judgment sort of required the authorities to keep checking, from time to time, the orders dealing with Internet shutdowns. Even though the Court didn't plainly label Internet access as a fundamental right, it still acknowledged how constitutionally important digital connectivity is, especially in real life.

E. Foundation for Media Professionals v. Union Territory of Jammu and Kashmir (2020)

In *Foundation for Media Professionals v. Union Territory of Jammu and Kashmir*, the Supreme Court looked at what happens when high speed Internet stays restricted in Jammu and Kashmir for so long. The petitioners claimed that even a partial or limited connection messes with education, healthcare, journalism, and also day to day commerce. The Court said, in effect, that Internet access is not just a convenience, it matters for the realization of multiple rights and purposes. So, it asked for a Special Committee to check whether the restrictions are still actually necessary, and if they should be trimmed or changed. Even though the Court did not wipe out the restrictions entirely, it did acknowledge the wider consequences that Internet shutdowns create for society as a whole. It also underlined that there should be ongoing or periodic review, rather than treating these limits as permanent.⁵⁸

F. Significance of Judicial Developments

The above decisions kind of show how the Indian judiciary approaches Internet related rights. In a number of cases, courts have basically accepted that digital technologies now matter a lot for communication, education, business, governance, and even personal

⁵⁷ *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637.

⁵⁸ *Foundation for Media Professionals v. Union Territory of Jammu & Kashmir*, (2020) SCC OnLine SC 453.

growth. So then, when judges interpret the Constitution, their reading has quietly grown to cover various kinds of online activities. Put together, these judgments suggest that freedom of speech, privacy, learning, and professional work really can't be used properly in the current era unless people have at least reasonable access to digital communication networks. Because of that, the judiciary has had a key part in shaping the legal rules around Internet rights in India.

More broadly, the Indian judiciary has made real contributions in recognizing and safeguarding Internet related rights. With rulings connected to online speech, privacy, education, and Internet shutdowns, courts have also noticed that digital connectivity is increasingly important in today's society. Even so, the Supreme Court still hasn't, as such, said that Internet access is a fundamental right in a clear express manner. Still, the judicial movement makes it pretty obvious that Internet access is tightly tied to how constitutional freedoms are exercised under Articles 19 and 21. Overall, the jurisprudence built by Indian courts gives a solid base for further recognition and protection of digital rights in India, going forward.

X. INTERNET SHUTDOWNS, GOVERNMENT REGULATION AND CONSTITUTIONAL CHALLENGES

The Internet has emerged as an integral part of modern civilization and influences our lives in every sphere be it communication, education, business, governance, healthcare, access to information etc. Governments across the world often resort to shutdown of Internet services for reasons of national security, public order and public safety. Internet shutdowns in India have thus become a significant legal and constitutional issue because of its direct impact on the exercise of Fundamental Rights.⁵⁹

⁵⁹ Apar Gupta and Elonnai Hickok, *Internet Shutdowns in India: The State of Play* (Centre for Internet and Society, Bengaluru, 2019) 4.

An Internet shutdown is broadly discussed as the deliberate suspension or disruption of Internet services by the government authorities in the country. A shutdown could be invoked during instances of riots, terrorism, communal violence, elections or during emergencies. Governments may justify these shutdowns citing security and law and order reasons; however, critics argue that protracted Internet shutdowns are detrimental to constitutional freedom and economy.⁶⁰

A. Legal Framework Governing Internet Shutdowns in India

The legal framework governing Internet shutdowns in India has undergone a significant statutory change. Earlier, suspension of telecom and Internet services was regulated principally through the Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017, framed under Section 7 of the Indian Telegraph Act, 1885. However, this framework must now be treated primarily as historical background.⁶¹ The Telecommunications Act, 2023 has replaced the colonial-era telegraph framework and brought key provisions, including Section 20, into force from 26 June 2024. Section 20(2)(b) of the Telecommunications Act, 2023 empowers the Central Government, State Government, or a specially authorised officer, on the occurrence of a public emergency or in the interest of public safety, to direct suspension of any telecommunication service or class of telecommunication services, subject to prescribed procedure and safeguards and for reasons to be recorded in writing.

The present procedural framework is contained in the Telecommunications (Temporary Suspension of Services) Rules, 2024, notified on 22 November 2024. These Rules were framed under Section 20(2)(b) and Section 20(4) read with Section 56 of the Telecommunications Act, 2023, and they expressly supersede the 2017 Rules, except in respect of acts already done or existing suspension orders continuing until their specified expiry. Under the 2024 Rules, a suspension order may be issued only by the competent

⁶⁰ Frank La Rue, Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, UN Doc A/HRC/17/27 (16 May 2011) para 79.

⁶¹ Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017.

authority, namely the Union Home Secretary in the case of the Central Government or the Home Secretary of the concerned State Government in the case of a State. Where unavoidable circumstances prevent issuance by the competent authority, an officer not below the rank of Joint Secretary may issue the order, but it must be confirmed by the competent authority within twenty-four hours, failing which it ceases to exist.

The 2024 Rules also introduce clearer procedural safeguards. Every suspension order must be published, must record reasons, and must be limited to the specific grounds necessitating the order, a clearly defined geographical area, the particular telecommunication service to be suspended, and a specified duration not exceeding fifteen days. A copy of the order must be forwarded to the Review Committee within twenty-four hours, and the Review Committee is empowered to set aside a suspension order if it is not in accordance with Section 20(2)(b) and Section 20(4) of the Act.

Accordingly, the 2017 Rules should no longer be described as the current legal regime. They remain relevant only for understanding the earlier framework under which important judicial decisions such as *Anuradha Bhasin v. Union of India* and *Foundation for Media Professionals v. Union Territory of Jammu and Kashmir* were decided. The constitutional principles developed in those cases—particularly legality, necessity, proportionality, publication of orders, temporal limitation, and periodic review—remain important in evaluating shutdown orders under the new statutory framework.

B. Reasons for Internet Shutdowns

Governments tend to shut down the internet when they believe that it is necessary to avoid the proliferation of false information, to ensure stability, to prevent violence, and to counter security threats. They reason that "social media can be exploited to circulate false propaganda, hate speech or incendiary material, which may undermine stability and security".⁶²

⁶² Ministry of Home Affairs, Government of India, Guidelines relating to Maintenance of Public Order and Security (various notifications).

In some instances, the government has imposed shutdowns during communal clashes, political protests, examinations and security operations. The government has argued that temporary shutdowns are often instituted to calm tensions and maintain order. The success of this strategy is now being questioned.

C. Constitutional Challenges to Internet Shutdowns

There are also open constitutional questions when it comes to Internet shutdowns. The above authors already refer to it as unconstitutional since Internet shutdowns implicate several fundamental rights contained in the Constitution of India. Of special importance to consider is the rights to freedom of speech and expression under Article 19(1)(a) of the Constitution.⁶³

Internet shutdowns also impact the right to pursue any profession, trade or business under Article 19(1)(g). Numerous companies (especially those which do business over the Internet) require regular and uninterrupted access to the Internet. Such shutdowns would have negative economic effects. In addition, extended shutdowns may impact rights under Article 21, including rights to health and education. Today, people require Internet access for education, employment, banking, and essential government services.

D. The Principle of Proportionality

Perhaps the most important constitutional principle that applies to Internet shutdowns is that of proportionality. This doctrine provides that any restriction by the State should be necessary, just and proportionate in relation to the end sought to be achieved.⁶⁴

Authorities should choose the least restrictive means possible. The Internet should not be shut down entirely unless this is the least restrictive means of dealing with the situation. Courts have been giving increased importance to the 'proportionality' test in situations where fundamental rights are severely limited. The doctrine offers a deterrent against

⁶³ Constitution of India, Art 19(1)(a).

⁶⁴ Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (Cambridge University Press, Cambridge, 2012) 131.

arbitrary use of state power and ensures that security considerations do not come at the cost of constitutional rights.

E. Judicial Approach towards Internet Shutdowns

The ruling in *Anuradha Bhasin v. Union of India* is the dominant panel on Internet shutdowns in India. The Court decided that both the rights to freedom of speech and expression, and freedom to trade through the Internet are protected by the Constitution of India. It also opined that any restriction on Internet services cannot remain unending, and are amenable to judicial review.⁶⁵

The Court's opinion also stated that shutdown orders must be made public and periodically reexamined. It further ruled that any order that restricts fundamental rights must meet the necessity and proportionality tests. Later cases have reaffirmed that protecting the nation from attacks does not justify neglect of constitutional protections and established that Internet access has become indispensable for education, health care, business and government.

F. Impact of Internet Shutdowns

In terms of social consequences, shutdowns can impact health care, food supplies, financial services, safety, and so forth. Many of these areas strongly rely upon the Internet and any shutdown could have serious effects. For example, in terms of financial services banking services will be affected.⁶⁶

Internet shutdowns also have the potential to directly harm journalists, researchers, civil society organizations and common users who can communicate with each other and access information only through the Internet. As a result, cumulative periods of Internet disruptions give rise to questions of transparency, accountability, and democratic governance. Several research and reports have argued that recurring Internet blocks

⁶⁵ *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637.

⁶⁶ Indian Council for Research on International Economic Relations (ICRIER), *The Anatomy of an Internet Blackout: Measuring the Economic Impact of Internet Shutdowns in India* (2018).

could harm economic development and investor confidence. Accordingly, it is proposed that alternate regulatory measures can be adopted, (while refraining from Internet shutdowns).

G. Need for Balanced Regulation

National security and public order are, of course, valid legitimate goals of the State. However, regulations that restrict the Internet must always do so with respect for the constitutional values and principles of human rights. Governments might choose narrower and proportionate methods that inhibit less the activities that remain lawful. Increased vigilance in decision making, judicial oversight, continuing re-issuance of shutdown orders and accountability structures can be effective in ensuring that these are used only in the extreme cases. Adequate proliferation of digital literacy and regulation of Internet misinformation may also diminish the extent of necessary restriction. An appropriate legal framework is therefore necessary.

Internet shutdowns are one of the most complex areas of contemporary constitutional law. Despite the State powers to restrict, in emergencies, States must respect notions of constitutionality and human rights. With today's increasing reliance upon digital technologies, the access and use of the Internet have become critical for life, work, business and for the exercise of democratic rights. Yet, the Indian Court rulings have highlighted that restrictions must demonstrate legality, necessity and proportionality. The challenge is to develop a framework for digital governance that balances between national security and fundamental rights. A robust, transparent, democratic and rights-centric framework is needed to enhance the constitutional values in India.

XI. COMPARATIVE PERSPECTIVES ON THE RIGHT TO INTERNET

This acknowledgment of Internet access as an important and fundamental legal and social right has not been confined to India. Many other countries have also endeavored in their own ways through legislation, state constitutions, judicial pronouncements and other public policies to guarantee their peoples' right to digital connectivity. While

formulating legal solutions to this right has varied from country to country, there is an emerging understanding across countries that Internet access is fundamentally linked to the realization of core democratic rights such as freedom of speech, access to information, education and participation. A cross-country comparison of these experiences could help frame new possibilities for stronger Internet rights law in India.⁶⁷

A. Finland: Pioneer in Recognizing Internet Access

In fact, Finland is one of the first countries to make broadband Internet access a legal right. The Finnish government adopted legislation in 2010, compelling telecom providers to deliver broadband connections everywhere in the country, enabling all citizens to be active members of the information society.⁶⁸

Indeed, the Finnish solution is predicated on the premise that access to digital services is a fundamental right for full social inclusion, participation in the economy, and to public services. Making access to the Internet a fundamental right has effectively eased the digital divide and improved digital literacy. In this fashion, it can be seen that the Finnish model provides a tool for government policy to achieve universal access without establishing a constitutional right.

B. Estonia: Building a Digital Society

Estonia has also been called one of the most digital nations in the world. After independence, a major focus was placed on developing its information technology infrastructure and digital governance system. Now a significant proportion of public services are available online, such as voting, taxes, health and education.⁶⁹

The Estonian government argues that the Internet is indispensable in daily life as well as in economic activities. Through systematic investment in digital infrastructure and

⁶⁷ Giovanni De Gregorio, *Digital Constitutionalism in Europe* (Cambridge University Press, Cambridge, 2022) 45.

⁶⁸ Ministry of Transport and Communications, Finland, *Broadband for All Programme* (Government of Finland, Helsinki, 2010).

⁶⁹ Mart Laar, *Estonia: Little Country That Could* (Centre for European Studies, Brussels, 2014) 91.

technology advancements, Estonia has built a model e-society, where all citizens are able to conveniently access government agencies and services via the Internet. The case of Estonia highlights the role of Internet access in governance and public administration.

C. France: Protection of Online Freedom

France has also pioneered the recognition of Internet-related rights through domestic legal interpretation. In 2009, the French Constitutional Council considered a bill allowing administrative authorities to disconnect the Internet services of those suspected of copyright infringement. The Council noted that freedom of communication and expression is a basic right and that Internet access allows some communication rights to be exercised, admonishing that, therefore, infringements of Internet access are subject to useful legal guarantees and judicial supervision.⁷⁰

The French approach states that while governments can regulate online activities, the regulation must conform to constitutional guarantees with respect to freedom of expression, due process, etc.

D. Greece: Constitutional Recognition of Digital Participation

Greece is an exceptional example of constitutional recognition of digital rights. The Greek Constitution has provisions favoring participation in the information society and access to electronically transmitted information. These constitutional provisions are more and more relevant for modern democratic societies.⁷¹

The use of digital participation in Greece's constitutional framework indicates that access to technology is the prerequisite for the implementation of many rights and freedoms. It exemplifies the adaptation of constitutional law to new societal realities and technological progress.

E. Costa Rica: Judicial Recognition of Internet Access

⁷⁰ Constitutional Council of France, Decision No. 2009-580 DC, 10 June 2009.

⁷¹ Constitution of Greece, Art 5A.

Costa Rica is also one of the countries where the courts have recognized explicitly the importance of access to the Internet. The Constitutional Chamber of the Supreme Court of Costa Rica ruled that access to digital technologies and a good communications infrastructure, including Internet access, enhances the enjoyment of constitutional rights such as freedom of expression and access to information.⁷²

The Court noted the usefulness of modern means of communication in the fields of education, economic development and democratic participation; this decision documents the recognition by courts of the link between the Internet and human development and free expression.

F. Lessons for India

Experiences in these countries establish that there cannot be any one type of model for protecting Internet-related rights. While most countries rely on constitutional provisions, others depend on statutory laws, judicial decisions, or public policies, to facilitate inclusion in the digital age. However, some general lessons can be learned from these experiences, including: the need to bridge the digital divide between the urban and rural sectors; the need to encourage affordable rates for Internet services, the need to frame legal provisions to prevent excessive restrictions on Internet access, and the need to enhance digital literacy programmes for using technology efficiently.

G. Emerging Global Trends

Recent progress points to a shifting international consensus that Internet access is significant. Increasingly, international organizations, courts and governments agree that digital connectivity furthers the realization of many human rights. Availability of access to information, online education, electronic and virtual commerce, and civic engagement are equated with Internet accessibility.

⁷² Constitutional Chamber of the Supreme Court of Costa Rica, Decision No. 12790-2010.

There is no binding international agreement yet that proclaims access to the Internet as a human right. However, international legal trends point to a growing recognition of the right to access the net in the context of other human rights. The emphasis is changing from bringing people online to making Internet access a meaningful experience for all and an affordable right.

The cross-section of varied jurisdictions reveals that Internet access has acquired significant legal and social importance around the globe. Countries such as Finland, Estonia, France, Greece and Costa Rica have implemented different interventions to safeguard and support digital connectivity. Such endeavors bring to light the increased realisation that Internet access is integrally linked with freedom of expression, access to information, education, economic growth and democratic governance. In many respects, these global trends present useful lessons for India in developing a set of normative principles for digital rights. As our society becomes ever more technology dependent, guaranteeing least-cost, least-inhibitive and least-privative access to the Internet will continue to remain a primary objective of constitutional governance and social structure.

XII. RECENT CONSTITUTIONAL DEVELOPMENT: RECOGNITION OF DIGITAL ACCESS UNDER ARTICLE 21

A significant development in Indian digital-rights jurisprudence occurred in *Pragya Prasun & Ors. v. Union of India & Ors.*, W.P.(C) No. 289 of 2024, decided together with *Amar Jain v. Union of India & Ors.*, W.P.(C) No. 49 of 2025, on 30 April 2025. The Supreme Court considered the exclusion of persons with disabilities, including acid attack survivors and visually impaired persons, from digital KYC, e-KYC, and video-KYC processes used for banking, telecommunications, financial services, and access to government schemes. The Court held that inaccessible digital KYC processes resulted in exclusion from essential services and implicated the fundamental rights of affected persons under Article 21.

The judgment is important because it moves Indian constitutional law beyond the earlier position in *Anuradha Bhasin*, which recognised constitutional protection for speech and trade conducted through the Internet. In *Pragya Prasun/Amar Jain*, the Court expressly connected digital access with dignity, autonomy, equal participation, and substantive equality. It observed that the right to life under Article 21 must be reinterpreted in light of technological realities and that the digital divide continues to produce systemic exclusion for persons with disabilities, rural populations, senior citizens, economically weaker communities, and linguistic minorities.

Most significantly, the Court held that the State's obligations under Article 21, read with Articles 14, 15, and 38, include the duty to ensure that digital infrastructure, government portals, online learning platforms, and financial technologies are universally accessible, inclusive, and responsive to vulnerable and marginalised groups. The Court further stated that bridging the digital divide is no longer merely a matter of policy discretion but a constitutional imperative, and that the right to digital access emerges as an intrinsic component of the right to life and liberty.

This ruling substantially affects the present paper's central thesis. It does not necessarily recognise an unlimited, freestanding right to Internet access in every context. However, it does recognise inclusive and meaningful digital access as a constitutionally enforceable dimension of Article 21, particularly where exclusion from digital systems prevents access to essential services, welfare delivery, financial inclusion, education, communication, and equal participation in public life. Therefore, the Indian position can no longer be described merely as one of indirect or emerging recognition. After *Pragya Prasun/Amar Jain*, digital access has received express constitutional recognition as part of the right to life and personal liberty, supported by equality and anti-discrimination principles under Articles 14 and 15 and the directive principle under Article 38.

XIII. FINDINGS, SUGGESTIONS AND CONCLUSION

The Internet has been the most revolutionary invention in recent times. It has changed the way we communicate, learn, govern, do business, consume health services and

socialise. Today, we do not use the Internet merely for seeking entertainment or information. It has now acquired an important dimension in realization of many constitutional and human rights. Our increasing reliance on digital technology has led to intense legal arguments on right to and right from the Internet. This research paper has analysed the conceptual underpinnings, global legal recognition and constitutional treatment of 'right to Internet' and addressed the judicial, regulatory and comparative issues in the rights-based framework of Internet usage. It finds that although the Internet is no longer a recognized fundamental right, it is, however, integrally linked to many fundamental rights and freedoms.

A. Major Findings of the Study

The primary conclusion of this report is that the Internet today is an indispensable means of exercising fundamental rights and freedoms, including the right to freedom of expression, access to information and education, the right to privacy, and the right to participation in democratic processes. As society becomes more and more digital, our reliance on the Internet grows: we use it to communicate with one another, to get an education, to do commerce, and to contact our governments. In turn, restrictions on access to the Internet are restrictions on the ability to exercise these rights.⁷³

Second, there is the finding that international human rights instruments provide a powerful normative basis for Internet rights. Even though texts like the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights all predate the Internet, their article texts have been interpreted so as to extend to the digital world. The world organizations are gradually learning that rights of offline citizens should also be rights of online users.⁷⁴

⁷³ Yochai Benkler, *The Wealth of Networks: How Social Production Transforms Markets and Freedom* (Yale University Press, New Haven, 2006) 212.

⁷⁴ United Nations Human Rights Council Resolution 32/13, *The Promotion, Protection and Enjoyment of Human Rights on the Internet* (2016).

The third is that Indian constitutional law has responded incrementally to modern technology. Judicial decrees have increasingly stretched the applicability of Articles 14, 19 and 21 and have accepted that access to the Internet increasingly informs freedom of expression, privacy, education and commerce. The rulings in *Anuradha Bhasin v. Union of India* and *Faheema Shirin R.K. v. The state of Kerala* exemplifies this responsiveness.⁷⁵

The fourth is that Internet shutdowns would have significant constitutional and human rights implications. Governments might have legitimate grounds to invoke restrictions for reasons of public order and national security, but any expansive or long-term shutdown might have detrimental consequences for education, commerce, health and democratic processes. The concept of proportionality is therefore relevant here.⁷⁶

The fifth and final conclusion is that comparative legal developments in Finland, Estonia, France, Greece, and Costa Rica reflect a growing global trend toward legal and policy protection of Internet access. These jurisdictions demonstrate varied approaches, including statutory broadband obligations, constitutional guarantees relating to participation in the information society, judicial protection of access to digital technologies, and public-policy commitments to universal connectivity. However, these developments should not be read as establishing a settled or uniform international consensus that Internet access is an independent fundamental human right. Rather, they show that Internet access is increasingly recognised as essential for the effective enjoyment of existing rights, including freedom of expression, education, democratic participation, access to information, and social inclusion.⁷⁷

B. Suggestions

⁷⁵ *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637; *Faheema Shirin R.K. v. State of Kerala*, AIR 2020 Ker 35.

⁷⁶ *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637.

⁷⁷ Constitutional Council of France, Decision No. 2009-580 DC, 10 June 2009; Constitution of Greece, Art 5A; Constitutional Chamber of the Supreme Court of Costa Rica, Decision No. 12790-2010.

Based on what this study found, there are a number of things that could be done in order to make protection of Internet-related rights stronger in India, kinda overall. For a start, the Government should actually take effective steps to reduce the digital divide between urban and rural areas. Even though Internet use has grown a lot in recent years, a lot of remote and poorer places still struggle with connectivity and affordability problems. So, expanding digital infrastructure should stay a national priority, not just something “nice to have”.

Second, affordable Internet services should be encouraged, through sensible regulatory and policy moves. If the costs stay high, then disadvantaged groups may simply not be able to access digital opportunities in a real way. Having an Internet that is both affordable and dependable can help social and economic development quite a bit, more than people might expect.

Thirdly, more transparency is needed when it comes to Internet shutdown orders. Every shutdown order should be published promptly, and it should also go through periodic review. These steps would help build accountability and, importantly, reduce the chance of restrictions being applied arbitrarily. In other words, less “guesswork” and more oversight.

Fourth, any restriction on Internet access should strictly follow legality, necessity, and proportionality. Total Internet shutdowns should be viewed as exceptional, and only used when it is absolutely required to deal with real threats to public order or national security. Anything beyond that would be hard to justify.

Fifth, digital literacy programmes should be strengthened across the country. Handing people access to technology is not enough, unless citizens also gain the skills needed to use digital resources effectively, and safely too. Schools, colleges, and government agencies should push digital awareness, and also cyber safety.

Sixth, Strong data protection mechanisms must be effectively implemented under the Digital Personal Data Protection Act, 2023 and the Digital Personal Data Protection Rules,

2025. Since meaningful Internet access increasingly requires individuals to share personal data for education, banking, welfare benefits, health care, communication, and public services, privacy protection should form an essential part of digital inclusion. The phased implementation of the DPDP framework should therefore be accompanied by awareness programmes, accessible consent mechanisms, prompt breach notification, effective grievance redressal, and special safeguards for children, persons with disabilities, rural users, and digitally vulnerable communities. Since citizens are increasingly relying on online platforms, safeguarding personal data and informational privacy becomes critical for keeping public trust in digital systems. Without that trust, the whole ecosystem wobbles.

Finally, policymakers might consider treating access to the Internet as an important legal entitlement, tied to the enjoyment of fundamental rights. This does not necessarily have to become a separate constitutional amendment, but legislative and policy initiatives can still reinforce protection for digital access and inclusion.

C. Conclusion

This research establishes that the Internet related issues are now amongst the most litigated legal and constitutional issues of the twenty-first century. The revolution in digital technologies has made the Internet a central instrument for communication, education, governance, commerce and social interaction. Access to the Internet has thus become increasingly associated with the realization of many constitutional and human rights. The research shows that there is no dispute that international human rights law, constitutional principles, judicial decisions and comparative legal developments, all support the realization of Internet related rights. There is no single universally accepted international legal standard establishing Internet access as an independent fundamental right. However, the position in Indian constitutional law has materially evolved after *Pragya Prasun & Ors. v. Union of India & Ors.* and *Amar Jain v. Union of India & Ors.* The Supreme Court has now recognised the right to digital access as an intrinsic component of the right to life and liberty under Article 21, read with Articles 14, 15, and

38. This recognition is not framed as an unrestricted right to all forms of Internet use, but as a right to inclusive, meaningful, and accessible digital systems where digital exclusion undermines dignity, autonomy, equality, and access to essential services, there is sufficient growing recognition that access to 'the digital' is essential to participation in the modern world. Through Indian jurisprudence the research charts the evolution of constitutional arguments around the digital age. Courts have emphasized on the importance of expression, information, privacy, education and professional activity on the Internet strengthens recognition of Internet related rights as constitutional rights. But Internet shutdowns, surveillance and digital inequality issues remain concerns to be addressed by law. In the years ahead constitutional governance will depend on the constitutional maturity of law to adapt to technological changes and still uphold fundamental freedoms. Promotion of digital access, guarantee of privacy, accountability and constitutional dignity are necessary pillars for a just democratic society. The right to Internet access was earlier understood primarily as a constitutional necessity enabling the exercise of existing rights, particularly in the context of Internet shutdown jurisprudence under *Anuradha Bhasin v. Union of India*. However, Indian constitutional law has now moved closer to explicit fundamental-right recognition through the Supreme Court's decision in *Pragya Prasun & Ors. v. Union of India* and the connected matter *Amar Jain v. Union of India*, decided on 30 April 2025. In that judgment, the Court held that exclusionary digital systems, particularly inaccessible digital KYC and e-KYC processes, violate fundamental rights under Article 21 and recognised digital access as an intrinsic component of the right to life and personal liberty, read with the guarantees of equality, non-discrimination, and social justice under Articles 14, 15, and 38.

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