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CANCEL CULTURE, DIGITAL VIGILANTISM, AND THE CHILLING EFFECT: ONLINE EXPRESSION AND MEDIA LAW IN INDIA

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I. ABSTRACT

*The advent of cancel culture as a form of digital public discourse poses a significant challenge to freedom of expression in India by generating a form of horizontal chilling effect that operates beyond traditional constitutional restraints on State censorship. Unlike vertical restrictions governed by Article 19(1)(a), cancel culture involves decentralized social mobilization through digital platforms, where reputational condemnation, professional exclusion, and psychological harm may arise without meaningful opportunity to respond, judicial oversight, or procedural safeguards. This creates a constitutional lacuna in which informal social punishment can substantially affect expressive freedom without directly engaging the existing framework governing State action. The doctrinal foundation for examining this phenomenon lies in the Supreme Court's decision in *Shreya Singhal v. Union of India*, where vague and overbroad restrictions were invalidated for their potential to produce a chilling effect on constitutionally protected speech. This article argues that algorithmically amplified social condemnation can generate a structurally analogous chilling effect, although through informal and decentralized mechanisms rather than explicit legal prohibition. The resulting tension raises questions concerning the horizontal application of constitutional values, particularly freedom of expression and principles of procedural fairness, within digital public discourse. The article therefore contends that addressing cancel culture through expansive State regulation risks reproducing the very dangers of excessive speech control that *Shreya Singhal* sought to prevent. Instead, it proposes a resilience-based constitutional approach centred on four structural interventions: strengthening counter-speech as an alternative to cancellation, developing*

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proportionate accountability norms for online communities, encouraging procedural fairness in digital accountability practices, and investing in digital literacy. Such an approach seeks to preserve democratic pluralism while mitigating the informal chilling effects generated by algorithmically amplified public condemnation.

II. KEYWORDS

Cancel Culture, Freedom of Expression, Chilling Effect Doctrine, Article 19(1)(a), Digital Public Discourse.

III. INTRODUCTION

Digital platforms have become the new infrastructure of public discourse and have fundamentally altered the sociology of accountability, expression, and democratic participation. The architecture of social media has collapsed many of the barriers that previously shaped entry into public debate, including editorial gatekeeping, institutional access, and geography.

This has created a communication environment that is simultaneously more democratic and more volatile: one in which collective mobilisation is available to anyone with connectivity and an audience, and in which reputational consequences may be imposed within hours of an allegation entering the digital system. This tension is evident in the phenomenon now commonly described as “cancel culture”: the decentralised, collective mobilisation of online communities to publicly denounce, socially exclude, or economically harm persons accused of violating ethical or social norms regarded by the community as central to its values.

As Picarella has pointed out, cancel culture is a social accountability measure and an informal punishment measure³; a space of conflict between democratisation of the expressive and weaponization of collective denunciation. This phenomenon holds a special constitutional importance in the Indian context. The digital penetration of Indian public life has led to online condemnations, which have the power to cause

³ Lucia Picarella, ‘Intersections in the Digital Society: Cancel Culture, Fake News, and Contemporary Public Discourse’ (2024) 9 *Frontiers in Sociology* 1376049. DOI: 10.3389/fsoc.2024.1376049.

consequences that rival, and in some cases surpass, those of criminal conviction, such as the loss of employment, social ostracism, or psychological trauma, as well as the permanent reputational disfiguring effects of search engine optimization, which is guaranteed by the Indian Constitution as a fundamental right to free speech and expression, to which there are a range of exhaustive reasonable restrictions.

A. Research Objectives

This study addresses the constitutional and doctrinal challenges posed by cancel culture and digital vigilantism in India. The aim is to investigate how algorithmically amplified, horizontal social coercion creates a chilling effect on free speech that is structurally analogous to unconstitutional state censorship, while operating outside the traditional vertical scope of Article 19(1)(a). The research explores how informal digital tribunals systematically bypass judicial oversight and breach the foundational principles of natural justice- specifically *audi altrem partem* and presumption of innocence. The objectives are as follows:

1. **To analyze structural analogy between cancel culture and state censorship:** To examine how algorithmically driven social shaming creates an informal chilling effect on free speech similar to the vague statutory provisions struck down in *Shreya Singhal v. Union of India*.
2. **To examine constitutional lacuna of horizontal speech regulation:** To investigate the doctrinal gap in applying Article 19(1)(a) – traditionally a vertical protection against state action – to horizontal coercion exerted by private citizens and digital platforms.
3. **To evaluate the erosion of natural justice in digital vigilantism:** To assess how online mobs and informal cancellation process systematically violate procedural fair play, particularly the right to be heard and the presumption of innocence.
4. **To contextualize digital speech within Indian judicial Jurisprudence:** To synthesize key Supreme court rulings – including *Kaushal Kishore* (horizontal rights), *Anuradha Bhasin* (proportionality), and *Tehseen Poonawalla* (anti-vigilantism) – to address non-state online suppression.

5. To formulate a resilience-based framework for digital public discourse:

To develop a non-legislative model based on robust counter-speech, platform accountability, proportionality standards, and digital literacy to protect expression without inviting state over-regulation

B. Research Questions

1. How does cancel culture in India produce a chilling effect structurally analogous to unconstitutional state censorship?
2. What constitutional and doctrinal resources exist to address horizontal restrictions on free speech?
3. What regulatory and resilience-based interventions can reconcile free-speech protection with accountable digital discourse?

C. Research Methodology

The article adopts a doctrinal legal research methodology. The aim is to critically examine primary legal sources, including the Constitution of India, relevant statutory provisions, and judicial precedents of the Supreme Court of India concerning freedom of expression, online speech, constitutional accountability, and digital rights.

The argument lies upon judicial jurisprudence including *Shreya Singhal v. Union of India* (2015), *Tehseen S. Poonawalla v. Union of India* (2018), and *Anuradha Bhasin v. Union of India* (2020), alongside relevant subsequent jurisprudence concerning digital speech. The authorities are analyzed to determine the applicability of constitutional principles, particularly the chilling effect doctrine, to informal and algorithmically amplified forms of social condemnation.

The doctrinal analysis is supplemented by secondary literature on cancel culture, digital vigilantism, informal speech regulation, natural justice, deliberative democracy and platform governance. There is also a limited comparative legal analysis of regulatory approaches developed under European Union platform governance frameworks and United Kingdom online safety regulation are examined selectively to identify institutional mechanisms which will help the Indian legal context. The comparative material is used only as a supporting analytical tool and does not constitute a comprehensive comparative study.

The research therefore combines doctrinal analysis with limited comparative examination to evaluate the constitutional tensions created by cancel culture and to develop a resilience-oriented framework based on counter-speech, platform transparency, proportionality, community accountability and digital literacy.

D. Research Scope

This study examines cancel culture as a constitutional phenomenon within the Indian legal framework, focusing on its implications for freedom of expression, the chilling effect doctrine, digital vigilantism, and principles of natural justice. It analyses whether the chilling effect doctrine, traditionally applied to formal restrictions on speech, can extend to informal and algorithmically amplified forms of social condemnation.

The study is primarily confined to the Indian constitutional and statutory framework and examines relevant judicial developments concerning freedom of expression and online speech. Limited references are made to European Union platform governance and United Kingdom online safety regulation to identify institutional approaches that may offer relevant insights for India.

The study further evaluates the constitutional desirability of state intervention and considers alternative approaches, including counter-speech, platform transparency, proportionality, community accountability, and digital literacy, as potential responses to the challenge posed by digitally mediated public condemnation.

IV. THE CONSTITUTIONAL PROBLEM OF HORIZONTAL COERCION AND LIMITS OF ARTICLE 19

The constitutional jurisprudence of free expression in India has been built as a bulwark against the State. The jurisprudence of 'freedom of expression' in India has been built to limit the State since *Romesh Thappar v State of Madras*.⁴ Article 19(1)(a) is a vertical clause which affords protection to citizens from the force of the state and imposes a requirement that any restriction on expression must be within the

⁴ *Romesh Thappar v. State of Madras*, AIR 1950 SC 124.

categories of permissible restrictions identified in Article 19(2) and must meet the proportionality and necessity requirements of the Supreme Court's jurisprudence.⁵

In *Shreya Singhal v Union of India*, the Court invalidated Section 66A of the Information Technology Act, 2000 on the grounds of its unconstitutionality, and its overbroad applicability to online speech, leaving it as the most prominent precedent for the argument that vague or overbroad restrictions have a chilling effect: that is, some individuals will cease to speak when the law is ambiguous, and they will go so far as to not speak at all in order to avoid punishment.⁶ What makes this situation so troublesome to the doctrines is that cancel culture itself has a chilling impact and does so in a wholly informal way.

It's not the state that is coercive; it's the social pressure that is amplified by algorithms. This implies that the traditional vertical way of analyzing Article 19(1)(a) - whether a restriction on expression has been imposed by the state - does not directly concern the harm. People who censor themselves to avoid the threat of a cancellation campaign are not reacting to the threat of legal sanction, but rather to what Clark, in a now widely cited analysis of the phenomenon, calls "accountability culture", whose weaponization against dissent is an informal but structurally effective system of speech regulation⁷.

The applicability of constitutional rights in India horizontally (as in regulating the actions of private entities rather than the state alone) is constitutionally not settled, but the Supreme Court has taken a step-by-step approach in the direction of accepting limited horizontal obligations. Neither case explicitly deals with the suppression of digital speech, but taken together, they suggest that the vertical-only model is not horizontally constitutionally required in all instances, and that the doctrinal framework is in place for a more sophisticated understanding of the operation of constitutional values in the informal social repression of cancel culture.

⁵ INDIA CONST. art. 19, cl. 1(a), cl. 2.

⁶ *Shreya Singhal v Union of India*, (2015) 5 SCC 1, 93-96.

⁷ Meredith D Clark, 'DRAG THEM: A Brief Etymology of So-Called "Cancel Culture"' (2020) 35(5) *Communication and the Public* 88.

This ambivalence was most recently clarified by the Supreme Court in *Imran Pratapgarhi v State of Gujarat*, where the Court quashed an FIR registered in relation to a poem shared on social media. The judgment is significant because it treats political, literary, and artistic expression as part of constitutionally protected democratic discourse, unless such expression falls within the narrowly drawn restrictions under Article 19(2).

The Court also emphasised that, in appropriate speech-related cases, the police should conduct a preliminary inquiry under Section 173(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 before registering an FIR, so as to determine whether a prima facie offence is actually disclosed. This reasoning strengthens the procedural dimension of free expression: speech should not be prematurely criminalised without threshold scrutiny. By analogy, the same concern applies to informal digital tribunals created through cancel culture, where allegations are often amplified into reputational punishment without notice, hearing, verification, or proportional assessment.

V. DIGITAL VIGILANTISM AND THE FALL OF DUE PROCESS

The sociological literature has agreed on the concept of 'digital vigilantism' as the most analytically accurate description of the specific phenomenon covered in the present article. The implications of this are that the level of severity of the transgression does not necessarily correspond to the level of punishment provided through a cancellation campaign; and that the irreversible nature of the effects the campaigning will have on one's reputation are not necessarily aligned with the truth value of the initial allegation.

This is a doctrinal question for Indian Media Law because of the connection between this characterization and the principles of natural justice. Digital campaigns for cancellation of the postage stamp of the target systematic violation both. The target is condemned, often without allegations having been substantiated, by the very party that has constituted itself as judge of the transgression, without any opportunity to present defence or challenge the evidence.

The psychological and media-freedom literature corroborates the seriousness of this harm, although the precise India-disaggregated figures presently cited in this manuscript could not be verified from the sources relied upon. Accordingly, the argument is better framed without unsupported statistical precision. UNESCO's recent World Trends materials indicate a broader deterioration in freedom of expression globally, including a reported decline in global freedom-of-expression indicators since 2012 and an increase in journalistic self-censorship. However, in the absence of a traceable primary source establishing India-specific percentages for politicians, media professionals, and academics, these figures should not be retained.

The safer doctrinal position is that cancel culture and digital vigilantism contribute to a climate in which journalists, academics, artists, political actors, and other public participants may reasonably self-censor to avoid reputational attack, professional exclusion, or coordinated online condemnation.

VI. CONSTITUTIONAL FOUNDATIONS AND THE EMERGENCE OF CANCEL CULTURE

Freedom of speech and expression, guaranteed under Article 19(1)(a) of the Constitution of India, stands as a cornerstone of Indian democracy. The phenomenal rise of social media and digital platforms has transformed the terrain of speech and regulation beyond recognition. Yet this transformation has brought not only democratisation of discourse but also new forms of suppression cancel culture and digital vigilantism that operate outside constitutional frameworks.

This also creates a scope of understanding, how the censorship theoretically works in the Indian context. Traditional free-speech jurisprudence addresses vertical relationships the state's power to restrict citizen speech subject to Article 19(2) reasonable restrictions. Cancel culture, by contrast, operates horizontally: private citizens using digital platforms to investigate, identify, and "punish" individuals perceived as having committed legal or moral offences. This horizontal coercion creates a parallel system of informal punishment judicial oversight, procedurally deficient, and systematically violating natural justice principles.

VII. THE CONSTITUTIONAL FRAMEWORK: ARTICLE 19 AND THE CHILLING EFFECT DOCTRINE

Article 19(1)(a) guarantees all citizens the right to freedom of speech and expression, subject to reasonable restrictions under Article 19(2) on grounds including sovereignty and integrity of India, security of the state, friendly relations with foreign states, public order, decency or morality, contempt of court, defamation, and incitement to an offence. The Supreme Court has explicitly applied this right to the online domain.

The chilling effect refers to the imposition of sanctions that limit or censor the exercise of lawful rights owing to fear of legal backlash. Indian free-speech jurisprudence has long recognised that censorship does not occur only through direct prohibition. The Supreme Court in *Shreya Singhal* raised concerns about the chilling effect on freedom of speech and expression due to arbitrary executive action.

In *Shreya Singhal v. Union of India* (2015) 5 SCC 1.⁸ The Supreme Court struck down Section 66A of the Information Technology Act, 2000⁹ as unconstitutional. The provision criminalized sending "offensive" messages through communication services. The Court held that such vagueness would have a chilling effect on free speech. The provision was incapable of passing the test of reasonable restrictions in Article 19(2), amounting to an arbitrary and unreasonable restriction on freedom of expression. The Court emphasized that a healthy democracy must include space for dissent and criticism.

In a significant development, the Supreme Court in *Kaushal Kishore v. State of UP* (2023).¹⁰ It was held, by a 4:1 majority, that fundamental rights under Articles 19 and 21 can be maintained against private or non-State actors. This ruling has fundamental implications for the digital landscape, allowing horizontal application of rights recognising the enormous control social media and the broader mediascape exert on

⁸ *Shreya Singhal v Union of India*, (2015) 5 SCC 1.

⁹ Information Technology Act, No. 21 of 2000, § 66A (India).

¹⁰ *Kaushal Kishore v. State of U.P.*, (2023) 4 SCC 1.

public discourse. While this opens doctrinal space for addressing horizontal speech restrictions, its application to cancel culture remains undertheorized.

VIII. CANCEL CULTURE AND DIGITAL VIGILANTISM: HORIZONTAL THREATS TO FREE SPEECH

Cancel culture refers to the phenomenon where individuals or groups seek to publicly ostracise or punish individuals for actual or perceived transgressions against certain social norms or values. Digital vigilantism is the phenomenon where private citizens use digital tools primarily social media platforms to investigate, identify, and "punish" individuals they perceive as having committed legal or moral offences. These phenomena represent "a parallel system of informal punishment" operating outside formal legal frameworks.

Procedural fairness is also considered to be objected when discussing cancel culture and how the principles of natural justice are violated. The David Shor case.¹¹ The controversy revolved around the timeline of 2020 where, Professor David Shor, a progressive data scientist and was fired from a polling firm. The primary cause being a tweet stating an academic study by a black scholar that suggested that riots often reduce liberal voting. The professor was given no chance, and his firing was influenced by the digital online mob. There was no formal notice and the company capitulated to the external digital pressure. This violated his fundamental right to defend his action and the right to be heard, or justify his context of the action.

This case identifies, that there was violation of fundamental principles of natural justice, along with the principle of *audi alteram partem* (right to be heard): targeted individuals lack opportunity for meaningful response before condemnation. The proportionality of the punishment was also not considered. This is also fueled by the algorithm principle and how it influences the flow of content being circulated in the digital channels. Algorithmic governance amplifies social condemnation, creating

¹¹ Robby Soave, *Remember When a Democratic Pollin Firm Fired the Guy Who Thought Violent Protests Could Backfire Politically*, Reached (Aug. 27, 2020), <https://reason.com/2020/08/27/protests-violence-david-shor-kenosha-biden-trump/>.

what this article terms "structurally similar chilling effect" to state censorship. Engagement-driven algorithms reward outrage, creating feedback loops that intensify cancellation campaigns. This algorithmic amplification distinguishes contemporary cancel culture from earlier forms of social ostracism.

Just as vague statutory provisions in *Shreya Singhal* caused self-censorship through fear of legal consequences, cancel culture causes self-censorship through fear of social consequences. The parallel is structural: both operate through fear rather than explicit prohibition; both deter protected speech; both lack clear standards. The "ever-looming 'cancel culture' dynamic has also created a fragile environment where a misunderstood sketch or slogan can invite widespread condemnation, legal trouble, or social ostracization".

Countries like Germany have made strict laws to stop online hate and harassment, imposing heavy fines on platforms that fail to act. The Budapest Convention on Cybercrime provides a comprehensive international framework, though India faces unique challenges coordinating enforcement with foreign jurisdictions.

The US approach under Section 230 of the Communications Decency Act provides platforms with broad immunity, creating different challenges. The Indian approach, shaped by *Shreya Singhal* and many other judicial precedents occupies a middle ground neither the absolute immunity of the US nor the heavy regulation of some European models. India's constitutional commitment to democratic pluralism suggests a path that neither abandons platforms to unregulated vigilantism nor subjects them to state censorship. The resilience-based framework proposed here offers a third way.

IX. CASE STUDIES: DOCUMENTING THE PHENOMENON

Climate activist Sonam Wangchuk was detained under the National Security Act, with authorities accusing him of inciting unrest through provocative speeches.¹² The

¹² Peerzada Ashiq, *Ladakh Statehood Activist Sonam Wangchuk Detained Under NSA in Leh*, THE HINDU, Sep 27, 2025, <https://www.thehindu.com/news/national/ladakh/climate-activist-sonam-wangchuk-arrested-in-leh/article70097428.ece>.

detention of Sonam Wangchuk was later revoked in March, 2026. His case highlights how digital expression can trigger both state repression and social condemnation. The arbitrary use of preventive detention against activists creating chilling effects on digital dissent.

Artists, comedians, filmmakers, and writers increasingly self-censor to avoid controversy. In Assam, artists "often tread a fragile tightrope", with self-censorship becoming "the default mode". The Samay Raina controversy and *India's Got Latent* exemplify how comedic expression may face both legal scrutiny and social backlash. In *Apoorva Arora v State (Govt of NCT of Delhi)*, the Supreme Court quashed the criminal proceedings arising from obscenity allegations against the creators and actors of the web series *College Romance*, holding that vulgarity, profanity, or coarse language does not by itself satisfy the legal threshold of obscenity.

It must be clarified, however, that the offences invoked in *Apoorva Arora* were framed under the Indian Penal Code, 1860, including Sections 292, 294, and 509, which have since been superseded by the Bharatiya Nyaya Sanhita, 2023. For any prospective application of the principle after 1 July 2024, the relevant successor provisions would include Section 294 BNS for sale or circulation of obscene material, Section 296 BNS for obscene acts and songs, and Section 79 BNS for words, gestures, or acts intended to insult the modesty of a woman.

Academic spaces face growing pressure, with "cancel culture" dynamics affecting intellectual discourse. The phenomenon raises "the vital issue of freedom of speech and creative expression in the country, highlighting the absence of diversity and a preference for hegemony and exclusivism in intellectual and public space".

X. THE CONSTITUTIONAL ARGUMENT: BRIDGING THE LACUNA

The core constitutional problem is that cancel culture operates constitutional restraints on state power, yet produces consequences comparable to state sanctions. This creates a "constitutional lacuna" a gap between constitutional protection against

state censorship and the reality of social coercion that produces identical chilling effects.

The article's central argument is that algorithmically enhanced social condemnation creates a chilling effect structurally similar to the unconstitutional statutory provisions struck down in *Shreya Singhal*. Just as Section 66A chilled speech through vague and overbroad prohibition, cancel culture chills speech through unpredictable and disproportionate social sanctions. Both operate through fear; both lack procedural safeguards; both deter protected expression. However, significant challenges remain:

1. Enforcement mechanisms to diffuse online mobs
2. Distinction between legitimate social criticism and unconstitutional coercion
3. Balancing free speech with protection against harassment

The article contends that state over-regulation is not the solution. "Censorship by the legislature of online expression is likely to repeat the problem that was addressed by *Shreya Singhal*, replacing one type of censorship with another." Legislative attempts to regulate online content risk replicating the very vagueness and overbreadth problems *Shreya Singhal* sought to remedy.

XI. SUGGESTIONS AND RECOMMENDATIONS

India's Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, which is framed under section 87 of the Information Technology act, 2000, holds procedural accountability on intermediaries through mandatory grievance-redressal mechanism.¹³ Rule 3 requires intermediaries to appoint a Grievance Officer and provide users with avenues to challenge content-related decisions.¹⁴ Subsequently, Rules 3A establishes the Grievance Appellate Committee (G.A.C) which enables an aggrieved user to appeal a Grievance Officer's decision

¹³ Information Technology Act, No. 21 of 2000, § 87, India Code (2000); *Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021*, Gazette of India, Extraordinary, pt. II, sec. 3(i), G.S.R. 139(E) (Feb. 25, 2021).

¹⁴ *Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021*, r. 3.

within 30 days, with the committee required to endeavor to resolve the appeal within 30 days.¹⁵

The GAC introduces an external review mechanism that places a degree of institutional accountability. India, hence, has been adopting a co-regulatory model, which is placed between purely state-imposed censorship and unregulated platform self-governance.

India has an intermediary accountability framework, but there is still room for suggestion and recommendations.

A comparative approach demonstrates that platform accountability can be strengthened without adopting a model that gives the State unrestricted control over online expression. Germany's earlier Network Enforcement Act, commonly known as NetzDG, was once an influential example of mandatory complaint-handling and enforcement duties for social-network providers. However, it should no longer be presented as a currently operative, freestanding regulatory model.

Following the EU Digital Services Act, Germany has substantially replaced the core platform-accountability obligations formerly associated with NetzDG through the national Digitale-Dienste-Gesetz, 2024. The comparative point should therefore be framed through the current DSA/DDG framework, which now provides the principal basis for notice-and-action mechanisms, complaint-handling duties, transparency obligations, and institutional oversight in Germany.

This model remains instructive for India, not because NetzDG can be transplanted in isolation, but because the DSA/DDG framework illustrates how platform accountability may be structured through due diligence, procedural safeguards, and regulatory supervision without collapsing into direct State censorship.

Talking about the European Union, the Digital Services Act (DSA) establishes obligations concerning transparency, content moderation, notice-and-action

¹⁵ *Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2022*, Gazette of India, Extraordinary, pt. II, sec. 3(i), G.S.R. 794(E) (Oct. 28, 2022) (inserting r. 3A); *Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021*, r. 3A(3)-(4).

mechanism, and internal complaint handling procedures.¹⁶ Article 14 requires intermediary services to communicate their content-moderation policies and procedures in clear and accessible terms; the article 15 promotes transparency and requires reporting concerning content-moderation activities; the article 16 establishes accessible mechanisms through which users may notify platforms of allegedly illegal content.¹⁷

The article 27 further requires platforms using recommender systems to disclose the principal parameters governing the information presented to users, thereby introducing a degree of transparency into algorithmic amplification.¹⁸

These codified rules are particularly relevant to India because they demonstrate that platform governance need not be reduced to a choice between state censorship and unrestricted private self-regulation, but promoting a co-regulatory framework under the Information Technology Rules, 2021. This co-regulatory framework could be strengthened through clear procedural safeguards, transparent moderation standards and greater accountability for algorithmically amplified content.

Drawing on the constitutional preference for "more speech" over censorship, the article proposes robust counter-speech as the primary response to cancel culture. The Supreme Court has reminded that "while writing can be misinterpreted, the remedy is not a prison cell, but a better, more robust conversation". Counter-speech—engaging with, rather than silencing, controversial expression—aligns with India's constitutional commitment to democratic pluralism. Community accountability processes should incorporate proportionality norms:

1. Distinguishing between legitimate criticism and punitive cancellation
2. Requiring factual basis before public condemnation

¹⁶ Regulation (EU) 2022/2065 of the European Parliament and of the Council of Oct. 19, 2022 on a Single Market for Digital Services (Digital Services Act), 2022 OJ. (L 277) 1.

¹⁷ Regulation (EU) 2022/2065 of the European Parliament and of the Council of Oct. 19, 2022 on a Single Market for Digital Services (Digital Services Act), 2022 OJ. (L 277) 1, art. 14-16.

¹⁸ Regulation (EU) 2022/2065 of the European Parliament and of the Council of Oct. 19, 2022 on a Single Market for Digital Services (Digital Services Act), 2022 OJ. (L 277) 1, art. 27.

3. Recognizing degrees of culpability and proportionate responses

Furthermore, the platforms which deal with the digital world, and create a digital public sphere should adhere to clear, accessible community guidelines which are consistently applied and include the definition of when a content may be restricted or removed. Vague and informal drafted guidelines which do not consider the growing development of the technology and the sphere as such will lead to inconsistent performance and there will be a sense of uncertainty among the users, subsequently intensifying the chilling effect on lawful expression and speech.

One such case was the decision of an oversight board of meta, as per which the former U.S. president, Donald Trump's Facebook account was suspended. The board did uphold the decision, but the meta institute faced criticism for imposing an indefinite penalty without any pre-existing standard. This case, held a clear principle procedural clarity is essential for maintaining fairness and legitimacy in platform governance.

The Digital Platforms should publish a Transparency report, elucidating the number, nature and outcome of actions taken with respect to content moderation. These actions should certainly include – removal of content, account suspension, and successful appeals. This publication will gradually remove the uncertainty faced by the users and develop institutional accountability.

It also helps in identifying patterns of bias. The quarterly reports issued by Meta, disclose in the open forum, data related to content removals, enforcement actions, government requests. This habit of quarterly reporting and publication, helps researchers and policy makers to evaluate the proportion of moderation practices with respect to the given platforms codified standards.

Apart from digital platform accountability there is also recommendations for highly engaged content which frequently focuses on outrageous, controversial and coordinated public shaming, at the expense of the genuine.

Therefore, platforms need to take a step towards algorithmic accountability by evaluating the impacts of their recommendation algorithms on the society, disincentivize the viral propagation of toxic pile-on content, and increase the level of

transparency in the content ranking algorithm. These reforms became more apparent after the Facebook whistleblower, Frances Haugen led with several documents containing similar revelations in 2021, which indicated that the algorithms the platform used often directed users to divisive and emotionally charged content to generate more user engagement.

Engagement-ranking might work profitable, but lead to unintended effects online campaigns and to the amplification of undesirable content such as online harassment. More algorithmic transparency would then help to minimize disproportionate 'digital punishment' and maintain strong political discourse.

Apart from the Shreya Singhal case, there have been different judicial precedents which have acted as a form of doctrinal development, complimentary to the research. The courts have progressively interpreted constitutional doctrines to ensure that freedom of expression is protected in while addressing the procedural deficiencies inherent to the in digitally mediated public condemnation.

The Supreme Court of India stated the principle of "proportionality" in *Anuradha Bhasin v. Union of India*.¹⁹ In which it was discussed that limitation for fundamental right should have to pursue a legitimate objective, it should be necessary, proportional and include procedural safeguards. The Society's ruling applied to internet usage restrictions imposed by the government, but the reasoning behind this ruling offers lessons for platforms and regulations of digital platforms. The courts might be inclined to approve moderate content policy control and suggested to consider the moderation mechanisms in a proportionate way taking into account the harm that is being addressed by platforms, meaning restricting content, deleting posts, or prohibiting someone's account should not be more than strictly necessary. It would reduce unwarranted disruptions to freedom of expression, and support fair procedures in private content moderation.

¹⁹ *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637 (India).

In another case of *Tehseen S. Poonawalla v. Union of India*.²⁰ The Honorable Supreme Court in an unequivocal order has condemned mob vigilantism and stated that individuals are not allowed to be judges, juries and executioners, outside the framework of the rule of law.

While the cases where the judgment intervened were related to physical mob violence, its reasoning also has relevance to other forms of public space that are digital, like coordinated online campaigns that exact reputational or professional costs, without due process. The principles of *Tehseen Poonawalla* can therefore be extended to a recognition of the dogma of online constitutionally-altering punishments as a form of digital vigilantism. This would give teeth to the principle of accountability to be firmly butted against legal processes instead of public outrage.

XII. CONCLUSION

This paper demonstrates that cancel culture and digital vigilantism in India is functioning as an informal system of punishment which is subsequently creating a chilling effect on free speech which is structurally analogous to unconstitutional state censorship. It is also operating horizontally through algorithmic amplification and social coercion. This mix of digital and public sphere phenomenon is bypassing traditional vertical constitutional protections under Article 19(1)(a) and systematically violating the core principles of natural justice – specifically *audi alteram partem* and the presumption of innocence. This article has also demonstrated that cancel culture and digital vigilantism in India create a chilling effect on free speech structurally analogous to unconstitutional state censorship.

The procedural deficit violation of natural justice, absence of judicial oversight, disproportionate sanctions systematically undermines constitutional values. The horizontal nature of this coercion falls outside traditional vertical constitutional protections, creating a significant lacuna. The resilience-based framework counter-speech, proportionality, platform accountability, digital literacy offers practical

²⁰ *Tehseen S. Poonawalla v. Union of India*, (2018) 9 SCC 501 (India).

interventions that align with India's constitutional commitment to democratic pluralism while avoiding the trap of state over-regulation.

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4. Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules 2022.
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