



NAVIGATING THE NEXUS OF FREE SPEECH, TECHNOLOGY AND STATE POWER

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ABSTRACT

We all know that free speech is non-negotiable, technology is very pervasive and the State power is seldom despotic. However, this simple truth is now lost in a digital labyrinth. This intricate nexus forces us to ask 4 crucial questions: -

- (i) Is the State truly our protector, or has it become a despot in recent era(w.r.t. free speech)?
- (ii) Are technology and Artificial Intelligence forging a new paradigm of free speech?
- (iii) Has the State gained the power to censor and criminalize dissent?
- (iv) What is the crucial role of Judiciary in harmonizing and redefining the concept of free speech in evolving time?

The free speech conferred by the Constitution has profoundly expanded its domain in this digital age. It is no longer limited to our spoken words but has permeated our posts, threads, photos, and memes, reels, podcast etc. This digital sphere is often marred by online roasting or harassment using digital contents or AI-generated morphed images. Furthermore, the circulation of Artificial Intelligence-generated deepfake videos is escalating this issue beyond a fundamental right into a pressing crime. In such a scenario, when the State attempts to impose restrictions using its power, the citizens often challenge this as a violation of their Free Speech, escalating the matter to the Judiciary. The Judiciary is thus caught in a profound dilemma: as a custodian of Constitution, it must protect Fundamental Rights on one hand, while simultaneously considering State security and also defining the limits of new

technology in this rapidly evolving era. This complex interplay is the nexus at the heart of modern democratic discourse and inadvertently presenting a critical challenge to our societal values. This article delves into this deeply concerning and intricate nexus, seeking to illuminate the path forward for societal value.

Keywords: Free speech, Technology, Judiciary, Artificial Intelligence, State, Nexus

1. THE LEGAL & JUDICIAL FRAMEWORK

The right to freedom of expression is not a modern invention. It is a foundational principle of human rights law, enshrined globally in Article 19 of the Universal Declaration of Human Rights and International Convention on Civil and Political Rights. In India, this right is recognized as a fundamental right under Article 19(1)(a) of the Constitution, which guarantees "freedom of speech and expression."¹ You will be amazed to know that during the process of drafting Constitution, our Constitutional architects were deeply influenced by global models of democratic rights, including American Bill of Rights. They consciously chose to diverge from USA model of near absolute right to free speech. Because, USA had seen the havoc of granting absolute freedom to its subjects with out any restriction. India was an infant democracy at that time and was not robust enough to endure such internal crises. The framers were mindful towards the potential for social and communal discord in a diverse & newly independent nation. They understood that an unfettered right to expression could be exploited to incite violence or undermine national unity. Hence, they deliberately inserted Article 19(2) which allows for reasonable restriction of free speech on grounds of: Sovereignty & integrity of India, Security of the State, Friendly relations with foreign states, Public order, Decency, Morality, Contempt of Court, Defamation, Incitement to an Offence.

¹ Article 19, The Constitution of India



2. HARMONISING THE NEXUS AND JUDICIAL PRECEDENT

Here I would like to draw attention of readers towards recent controversy cropped up due to scolding comment by a famous IAS Coach on internet². In viral video it has been seen that the coach is denigrating Judiciary by mocking higher Judiciary and disparaging the integrity and honors of district judiciary by some fallacious comparison with district magistrate. He also allegedly made controversial comparisons between powers of District Judge and District Magistrate, suggesting that Judicial power is dependent on Police cooperation and the confluence of District Judge and SP. This torrent of scornful commentary has now precipitated a formal reckoning, as the speaker is currently confronting legal consequences commensurate with his derogatory remarks. A lower court in Ajmer has already issued summons to him. Now, let's analyze this incident how a free speech transcended its hedge and furlled to tagged as an offence.

In the exercise of his fundamental right to freedom of speech, it is imperative to note that one must not transcend the meticulous boundaries set forth by the Constitution. As an advocate, I would like to underscore that his utterance as demonstrated in viral video, particularly those disparaging the judicial structure are deemed sufficient to attract the twin spectra of contempt of Court and defamation of Judiciary. The Constitution, while guaranteeing liberty of thought, expression, simultaneously mandates reasonable restrictions under Article.19(2), serving as a crucial bulwark against that alleged speech which undermines the very institutions vital to the republic's foundation- a threshold his comment seems to have perilously crossed. This incident perfectly encapsulates the friction within nexus of free speech, technology and state power. The coach utilized the technological nexus to

amplify his highly critical and derogatory dissent by disseminating it across the internet. If, he had uttered this within four walls of his private coaching class, this might not be reached to such umpteenth numbers of audience. The State's response – the legal summons and the likely invocation of contempt is the essential function of State power asserting its authority to enforce reasonable restriction. This action underscores the delicate contemporary challenge: the digital age grants an unbridled platform for critique, compelling the Judiciary to constantly recalibrate its mechanisms to safeguard both the fundamental right to expression and the absolute necessity to maintain institutional honor and operational efficacy.

In this complex nexus, sometimes citizens transcending their perimeter, while sometimes, State poses to become despot to suppress the free speech.

While turning the pages of past, it is wisely noted that the Judiciary has played a crucial role in redefining the State power. In the landmark *Shreya Singal case*³, the Supreme Court struck down S. 66 A of IT Act⁴, emphasizing that freedom of speech could not be restricted on vague grounds. Let's analyze this case to understand this intricate nexus. In this very case, the Supreme Court posed as the protector of digital manifestation of free speech and expression. The seminal case originated from the arrest of two young women, for a simple Facebook post and a like on that post, expressing dissent over bandh called in the wake of a politician's funeral. The swift incarceration was a draconian move by the State to wield the sweeping Section.66A of the Information Technology Act, aiming to stifle digital dissent and compel mass self censorship- a direct, dangerous assault on the freedom of expression. In this profound Constitutional crisis, the Judiciary emerged as a guardian angel to protect the fundamental right of digital voice. By decisively

² "IAS Coach faces legal action over 'defamatory' remark against Judiciary", The Times of India (Patna edition) 9.07. 2025

³ AIR 2015 SC 1523

⁴ Information Technology Act 2000(Act No. 21 of 2000)



striking down Section 66A, the Court delivered a powerful affirmation on Constitutional morality i.e. the right to critique the established order is the non-negotiable bedrock of democracy, securing the digital public square.

⁵“*Shreya Singhal is a hugely important landmark in the Supreme Court’s history for many reasons. It represents a rare instance of the court adopting the extreme step of declaring a censorship law passed by Parliament as altogether illegitimate. But what’s most uplifting about the judgment is that it has explicated to us, with remarkable felicity, the scope of the right available to us to express ourselves freely, and the limited space given to the state in restraining this freedom in only the most exceptional of circumstances. In clarifying the balance between the right and its narrow constraints, the court has struck a vicious blow against the duplicitous stand taken by the state, which consistently represents the right to freedom of speech and expression as a fragile guarantee at best. As Justice Nariman’s opinion has highlighted, the liberty of thought and expression is not merely an aspirational ideal. It is also “a cardinal value that is of paramount significance under our constitutional scheme.”*”⁶ I must emphasize that without this landmark ruling, the digital voice would be proved as a fiasco in our nation. This verdict saved our conscience from being shackled.

Another pivotal case is *K.A. Abbas v/s Union of India*⁷, which upheld the constitutionality of film censorship but clarified that it must be based on reasonable restrictions. These rulings serve as vital precedent that the State's power to regulate speech must be exercised within the strict confines of the Constitution. In this case, the Supreme Court upheld the principle of film censorship while concurrently established its stringent limits. The

Court recognized film as a special medium with an unparalleled visual and emotional gravities, justifying its differential treatment from other forms of expression. Crucially, the ruling dictated that this regulatory power is not absolute, but must be infallibly tethered to the reasonable restrictions enshrined under Article 19(2). This judicial pronouncement cemented a vital precedent: the State’s authority to regulate speech is constrained within the strict confines of the Constitution, reinforcing the Judiciary’s role as the indispensable check against arbitrary executive action.

3. THE DOUBLE-EDGED WEAPON OF TECHNOLOGY

Technology, particularly the internet and social media has been the most transformative force for free speech in recent history. Platforms like X (formerly known as Twitter), Meta, YouTube have been breaking down traditional communication barriers, empowering marginalized communities in a way that was implausible just a few decades ago. However, this same technology carries a dark potential with it. It can be weaponized to spread misinformation and propaganda at an alarming rate, creating "echo chambers" that lead to deep societal polarization. A new and profoundly disconcerting frontier is the advent of **Artificial Intelligence**, particularly the proliferation of deepfakes. These hyper-realistic forgeries of audio and video pose an existential threat to the integrity of the information ecosystem. A fabricated video of a political leader could ignite diplomatic crises or foment civil unrest. This ability to manufacture irrefutable "evidences" to slander opponents, undermine the very foundation of public trust and renders the State vulnerable to technology enabled subversion. In fact, this can't be tagged as slander, but is a libel, because these

⁵<https://www.google.com/amp/s/www.thehindu.com/opinion/lead/The-judgment-that-silenced-Section-66A/article59870557.ece/amp/>
Editorial, The Judgment that silenced Section 66A, The Hindu, Digital edition, 4.12.2021

⁶<https://www.google.com/amp/s/www.thehindu.com/opinion/lead/The-judgment-that-silenced-Section-66A/article59870557.ece/amp/>

⁷ AIR (1971)



deepfake remain perpetual owing to digital dissemination.

4. THE STATE AND ITS INSTRUMENTS OF CONTROL

Historically, the State has used its power to regulate and suppress dissent. This practice now amplified by technology, is evident in the laws like Sedition (S. 124 A IPC), UAPA to charge activists and students. In recent past, we have seen severe crack down on a renowned University students on some controversial speech along with demonstration against new Citizenship Amendment Act in New Delhi. These actions often justified in the name of national security, raise concerns about the State's use of its power to silence critics.

A more extreme form of censorship is the use of internet shutdowns, which severely limits citizen's ability to communicate and receive information, as seen during the recent Manipur violence⁸ as well as in Kashmir⁹ during revocation of article 370. The recent Nepal coup demonstrated the State's power on social media restrictions & curtailment of democratic rights. It has been observed that State's use of force to consolidate power often begins with a crackdown on expression. The State's increasing capacity for surveillance enhanced by technology, further complicates this landscape. The ability of Govt to monitor citizen's online activities, track their communications and access their personal data poses a direct threat to the right to privacy and can have a chilling effect on free speech. This erosion of privacy fundamentally alters the dynamic of public discourse as citizens may self-censor out of fear of State retribution or monitoring. Such kind of online monitoring of citizen's activity and personal chat posing a detrimental intrusion upon citizen's right to privacy, which is a fundamental human right as stated in *K.S. Puttaswamy Vs. Union of India*.¹⁰

A very recent announcement by Government of India for mandatory default installation of *Sanchar*

Sathi app in every smart phone without any option to disable or uninstall the same has raised eyebrows of netizens. It is perceived as a direct infraction on our privacy on pretext of securing us from cyber fraud. Although, Government has recalled its order, but still it is a matter of grave concern as it has exposed the intention of the Government to monitor the activities of citizens¹¹.

5. FROM PUBLIC SPACES TO PRIVATE PLATFORMS

A significant challenges in this new nexus is the drastic shift of public discourse from public space to private platforms owned by Corporation, for example, by Elon Musk. Historically public spaces/forums were regulated by public law, with clear Constitutional protection. Today, a large part of our right to expression is dependent on the terms of service & contents moderation policies of private companies. Their decision to take down content or ban users, though not subject to the same constitutional oversight as Govt actions, but can feel like a direct denial of free speech, creating a new vulnerability to corporate whims & profit motives, because in this Digital world we all are sewed with the flow of digitization.

6. INDECENCY - ETHICAL COLLAPSE OF UNREGULATED AI AND FREE SPEECH

Here, I would like to highlight a highly reprehensible incident arising from the unregulated and unethical use of artificial intelligence, which exposed its potential to cause severe societal harm.

On the social media platform Twitter (now X), an AI assistant named *Grok* has been deployed without adequate ethical safeguards. Certain users exploited this tool by commanding it to digitally strip women whose normal, decent photographs were uploaded online. Shockingly, the AI complied instantaneously. What followed was a disturbing

⁸ 2024

⁹ 2019

¹⁰ AIR 2017

¹¹ "DoT walks back Sanchar Saathi pre-installation directive following uproar", *The Hindu*, 4.12.2025(Patna edition)



trend under the hashtag #BikiniGrok, wherein images of innumerable women—young girls, adult women, and even elderly women—were digitally morphed, denuded, and sexualized on a public platform without consent or warning.

This incident constituted a direct assault on women's dignity and privacy. Indian women were also among the victims, and licentious users found unrestrained amusement in this exploitation. Although the concerned Ministry intervened and curbed access to this tool in India within 48 hours, the damage—both psychological and reputational—had already been inflicted.

This episode stands as a grim reminder that the unhindered deployment of AI, without ethical accountability and human oversight can lead to catastrophic consequences for society. Such incidents compelled us to reaffirm about strict measure by State on free speech and artificial intelligence. Because, here issue is not about free speech versus state power, but the uncontrolled misuse of technology without constitutional mandate. Here, I perceived that strict measure by State govt seems inevitable, otherwise in the name of free speech, the technology and AI will shun the existence and dignity of women.

7. ALGORITHMS AND AUTOMATION IN EDITORIAL REVIEW—INCIDENT WHERE AI QUESTIONED HUMAN ORIGINALITY

I would now like to present a personal, real-life case study that exposes another disturbing dimension of artificial intelligence—its intrusion into human creativity and a potential threat to free speech.

I authored an academic article on the misuse of artificial intelligence and submitted it to a college editorial board for consideration in their forthcoming publication. Given my ethical stance and professional responsibility, I consciously refrained from using any AI tools during the writing process. I personally consider AI as a potential threat to human creativity, as it lacks independent reasoning,

consciousness, or originality—it merely imitates patterns based on pre-fed data.

To my astonishment, I was informed by the editorial board that my article had been flagged as *AI-generated text*. I sought clarification as to whether the concern related to plagiarism or duplication. The response was unequivocal: it was flagged as AI-generated. This left me flabbergasted.

I undertook an in-depth study of AI detection algorithms and consulted AI engineers to understand how such a conclusion could be drawn. I discovered that my writing style bore resemblance to established journalistic language—particularly that of veteran newspaper which, I have read consistently over the years. Furthermore, I have authored nearly twelve articles published in national and international journals, all of which are freely available online. My consistent tone, flow, and argumentative temperament—hallmarks of an authorial voice—were already present in digital space.

Ironically, AI systems had absorbed my prior work as training data, and when I articulated my own stylistic consistency, the algorithm flagged it as artificial.

In effect, my originality was questioned because AI had already learned from me.

The Absurdity of “Humanizing” the real humans:-

The editorial board went a step further and suggested that I should pay for online software to “*remove AI-generated text*” and “*humanize*” my article. Numerous tools now claim to downgrade or distort language so that it appears more “human”. This is the height of absurdity. I am a human being. My writing is human-written. Yet I was asked to seek certification from a machine to prove that I am a human. What ludicrous is it? Flawless grammar, structured arguments, and coherent flow were treated as indicators of artificial authorship. There exists no transparent or scientific criterion for



declaring a text AI-generated. Detection tools operate on probability, not certainty.

To “*humanize*” a text, AI tools deliberately degrade linguistic quality—thereby equating human imperfection with authenticity.

I refused to comply and formally withdrew my article. My position was unequivocal: an original human mind does not require validation from opaque algorithms.

This experience serves as a critical case study, illustrating how over-reliance on automation can erode genuine human creativity. Editorial boards that fail to understand algorithmic mechanisms risk silencing authentic voices. Automation, when unchecked, transforms an assistive tool into an unquestioned authority.

In this context, I use the term “AI-slave” deliberately—not as an insult, but as a diagnosis of institutional complacency. When human judgment is surrendered to software outputs without scrutiny, creativity becomes collateral damage.

Artificial intelligence cannot create—it can only imitate within the confines of limited data. The human mind, however, is dynamic, contextual, and infinite. A society that prioritizes algorithmic approval over human intellect risks intellectual stagnation. And yes, I am not the first victim, because many genuine authors already suffered this plight due to relentless use of automation algorithms in manuscript review process. But, I learnt from this lesson that, in future AI and algorithm softwares might suppress original voice of author and curtail free speech, if it will be programmed accordingly.

8. NAVIGATING THE NEXUS: A PATH FORWARD.

Navigating this complex nexus requires a multi-pronged approach. Govt must resist the urge for

heavy-handed control & instead focus on developing clear, judicially reviewable legal frameworks that address specific markers without undermining free speech & expression. In this prospect I would like to throw light upon *the Karnataka Hate Speech and Hate Crimes(Prevention) Bill 2025*, which has been tabled recently in State legislature. This is a vivid example of this arduous nexus. The draft clearly transpires that the proposed Bill is an epitome of blatant misuse of State power. On this regard an editorial was published in *The Hindu newspaper* on 12th December 2025 under the heading of “*Playing to the Gallery*”¹², where the author meticulously explained the aspect of the Bill and its potential threat to free speech. While throwing light, the author portrayed the scenario by citing “*Good intentions do not necessarily lead to good outcomes*”. This is the a striking example of this nexus. Actually with the advent of technology, and its ubiquitous digital podium, the boundary of free speech has been blurred, sometimes becoming conflated with or rapidly metamorphizing into hate speech. To clog the unfettered spread of technology-driven hateful contents, the State feels compelled to intervene and restrict such intent. However, this necessity creates a profound tragedy: here in its effort to prevent hate speech, the State risks stifling the very soul of legitimate free speech and blemishing the fundamental right. In this juncture, the ultimate ray of hope is Judiciary, which can rightfully harmonize these two contrasting valors. Otherwise, its an abstruse to imagine a welfare nation in near future. Only judiciary can set the parameters by keeping in view the prevailing digital age.

One must perceive that, the whole nexus is revolving around the power. When citizens get the freedom to express themselves fully (Under article 19), they misused it by transgressing the societal, ethical, legal brim. And the other actor i.e. State which has procured its Constitutional power to legislate is

¹² Editorial, “Playing the gallery”, *The Hindu newspaper*, 12.12. 2025 (Page 6, Patna Edition)



often seen to sabotaging it. Whereas the Constitution gave the discretion to enact the law, we have witnessed how the State arbitrarily misusing its power. Here I would like to reminisce the dark jiffy of our democracy in mid 70's with the imposition of Internal emergency in India. In this intricate conflicting nexus, I would like to reiterate a famous adage of Lord Acton:

*"Power tends to corrupt , and absolute power corrupts absolutely"*¹³.

The current practice of defining fundamental rights in the digital age requires immediate re-evaluation. Our reliance on applying existing laws by analogy—akin to the concept of Qiyas (analogical reasoning) in Muslim Law—is miserably failing to match the pace of technological advancement. Unimpeded technological speed posing a clear peril to national security , internal integrity and harmony of our nation.

While the Information Technology Act¹⁴ offers partial solutions, but a Codified Digital Law is urgently needed. This law must incorporate a stringent Digital Clear and Processing test to prevent the dissemination of hate speech, while concurrently ensuring that no data processing should be politically inspired.

Crucially, the State, being the more powerful entity, must face an increased burden of proof. When curtailing free speech, the State must unequivocally ensure that any dissent genuinely constitutes a threat to the nation's integrity, sovereignty, secularity, or any of constitutional morality.

The entire International communities also working to a consensus on global standard for digital governance. Tech companies must become more

transparent and accountable. Furthermore, rapid AI development demands a Proactive AI Ethical Department to embed ethical dimensions into AI usage. Tech companies must face clear accountability and penalties. Transparency in contents moderation is essential. Strict action must be taken against deepfakes that harm national security or constitutional morality. Recently , we have witnessed many deep fake videos circulating via WhatsApp, fabricating Hon'ble Prime Minister as endorsing some fraudulent investment schemes that promised high returns¹⁵. Upon fact checking by PIB¹⁶ , those videos flagged as fake. During Bihar Election campaigning, a deepfake AI generated video was circulated by opposition involving PM's late mother which has been removed from digital platform by an order of Hon'ble Patna High Court.¹⁷ The law must define with clarity regarding who is liable when AI systems commits an offence.

Finally, the Judiciary must affirm that State welfare is served best by expanding digital rights, not by constriction. The Courts should re-interpret free speech and privacy to include the right to lawful digital access, compelling the State to:

- approach Internet shutdowns as measures of last resort , subject to stringent judicial scrutiny.
- neutralize misinformation through prompt digital literacy, public fact-checking , and avoiding outright censorship.

By adopting this forward-looking constructive as well as protective s measure, the Judiciary can swiftly navigate and resolve this labyrinth.

In my concluding note, I would like to highlight the irrefutable fact that *"free speech is the lifeblood of a functioning democracy"*¹⁸. It is imperative to

¹³ www.acton.org/research/lord-acton-quote-archieve

¹⁴ Information Technology Act 2000 (Act no 21 od 2000)

¹⁵ Viral reels circulating across social media

¹⁶ Press Information Bureau (a Govt fact checking agency)

¹⁷ 'Patna High Court directs Congress to remove AI generated video of PM Modi, his late mother' , The Hindu newspaper ,18.09.2025 (Patna edition)

¹⁸ <http://www.shankariasparliament.com/current-affairs/freedom-of-speech-1>



establish a legal framework that enhances accountability for both the Govt & Technology Corporation. This framework must ensure that Govt actions are subject to judicial review, and that private platform policies are fair, transparent and do not arbitrarily suppress voices. The great test of our era is to ensure the power of technology serves to liberate human expression, not to become a new instrument for its suppression.

I would like to draw attention towards a recent ruling of Hon'ble Karnataka High Court published in The Hindu newspaper on dated 25.09.2025 under heading of *"HC rejects X Corp's plea against blocking orders"* Here Hon'ble Court stringently mentioned order is the architecture of our democracy: *"Every platform that seeks to operate within the jurisdiction of our nation must acknowledge that liberty is yoked with responsibility, and the privilege of access carries with it the solemn duty of accountability."*¹⁹ Undoubtedly here, Hon'ble High Court emphasized the big tech company to adhere to laws of nation and stressed on liberty stuffed with accountability.

9. WAY FORWARD

The fortitude of any democracy rests fundamentally on the effective protection of freedom of speech and expression. In the digital eon, however, this foundational right is afflicted by a dual pathology: first, the unchecked spread of expression into malicious hate speech; and second, the curtailment of legitimate critique and dissent under the guise of preserving State order. While the former necessitates firm legal accountability, the latter demands the highest degree of constitutional protection.

The present phase of the rapid unprecedented digital revolution has profoundly transmuted the scope of free speech. With a single click, our words now travel instantaneously across the globe, extending expression beyond written words to include videos,

music, and the pervasive culture of memes. This rapidly expanding and multi-faceted challenge calls for a deeper and more reflective expansion of legal jurisprudence on this nexus. Technology, regrettably, is fast shifting from a potential friend of liberty to a camouflaged foe.

To confront this dual pathology, the spectrum of free speech must be recalibrated for the twenty-first century. This requires a vibrant articulation of the legal and ethical limits governing AI and digital technologies. The State must be restrained from fluxing its discretionary authority with arbitrary power. Only through this shared responsibility—where ethical standards for AI and precise legal boundaries coexist—can a truly balanced and coherent future emerge. In such a future, citizens will be able to express themselves without apprehension, technology will function as an adjunct to aid free speech fully with content by truncating unethical dimensions, and finally the State will respect its constitutional constraints. Only then we can flourish in our society genuinely to experience the vitality of a resilient and healthy democracy.

¹⁹ "HC rejects X Corp's plea against blocking orders", in The Hindu newspaper, 25.09.2025 (Patna edition)