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Digital literary and personal freedom with legal issues

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Abstract

The digital age has revolutionized literary expression and personal freedom. The internet, social media, e-publishing, and digital platforms have provided individuals with unprecedented access to knowledge, expression, and creativity. At the same time, this freedom has given rise to new legal, ethical, and social challenges. Questions of copyright infringement, censorship, privacy violations, hate speech, and surveillance are deeply intertwined with the exercise of digital rights. This paper critically examines the intersection of digital literary freedom and personal liberty with the legal frameworks that regulate them, focusing particularly on the Indian context while drawing parallels with international jurisprudence.

Keywords: Digital rights, literary freedom, personal liberty, copyright, censorship, privacy, information technology act, human rights

Introduction

Freedom of speech and expression has long been considered the cornerstone of democratic societies. In the 21st century, digital technologies have expanded the scope of this freedom to new arenas—blogs, e-books, podcasts, digital art, online journals, and social media. Literary production is no longer confined to publishing houses but is democratized through digital platforms. Personal freedom has also grown in scope, with individuals asserting autonomy through online communities, access to diverse viewpoints, and digital activism.

However, digital freedoms exist within a complex legal environment. Governments and corporations exercise regulatory power in the name of copyright protection, national security, public order, and morality. The balance between safeguarding individual liberty and protecting collective interests remains a challenge.

This paper explores how digital literary freedom and personal liberty coexist, conflict, and evolve within the legal framework, highlighting case laws, statutes, and contemporary debates.

Objectives of the Study

1. To examine the scope and meaning of digital literary freedom in the context of online publishing, intellectual property, and creative expression.
2. To analyze the dimensions of digital personal freedom with reference to privacy, data protection, surveillance, and online autonomy.
3. To evaluate the constitutional and statutory frameworks in India (Articles 19 & 21, *IT Act 2000*, *Copyright Act 1957*, *Digital Personal Data Protection Act 2023*, *IT Rules 2021*) that regulate digital freedoms.
4. To study the role of judiciary in safeguarding digital rights, with reference to landmark judgments (*Shreya Singhal v. Union of India*, *K.S. Puttaswamy v. Union of India* etc.).
5. To identify the emerging legal challenges posed by artificial intelligence, cross-border jurisdiction, online censorship, piracy, and misinformation.
6. To suggest policy and legal reforms for balancing digital freedom with regulation, ensuring both creative liberty and accountability.

Conceptual Framework

Literary Freedom in the Digital Age

The 21st century has witnessed a rapid transformation of how individuals create, share, and consume literary and personal content through digital platforms (blogs, e-books, social media, digital archives). Digital literary and personal freedom refers to the right to freely

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express one's thoughts, creativity, and identity in digital spaces without undue censorship or infringement. These freedoms are subject to a legal framework that attempts to balance personal rights with concerns of national security, privacy, intellectual property, and social harmony

- **Traditional Literary Freedom:** The right to write, publish, and circulate ideas without censorship.
- **Digital Literary Freedom:** Includes self-publishing, e-libraries, fan fiction, online critiques, memes, AI-generated content.
- **Opportunities:** Wider readership, reduced barriers, creative innovation.
- **Challenges:** Plagiarism, piracy, content moderation, misinformation.

Personal Freedom in the Digital Era

The digital era has fundamentally transformed the meaning and scope of personal freedom. Once confined to the physical realm of speech, movement, and association, personal liberty today extends into cyberspace, where individuals create digital identities, express opinions, form communities, and exercise autonomy over personal data. With the rise of social media platforms, e-governance, digital payments, and virtual learning spaces, the boundaries between the personal and the digital have blurred, making personal freedom both more expansive and more vulnerable than ever before.

In the Indian constitutional framework, personal freedom derives from *Article 21* (Right to Life and Personal Liberty) and *Article 19(1)(a)* (Freedom of Speech and Expression). The Supreme Court, in *Justice K.S. Puttaswamy v. Union of India* (2017), recognized privacy as an intrinsic part of personal liberty, thereby extending constitutional protection into the digital domain. Yet, the exercise of freedom in cyberspace is shaped by competing interests—national security, public order, morality, and protection of the rights of others. This tension often manifests in legal debates around surveillance, censorship, online harassment, hate speech, and data protection.

The digital era also introduces unprecedented challenges: mass surveillance technologies, algorithmic profiling, artificial intelligence, and the commodification of personal data by private corporations. While digital platforms empower individuals with unprecedented access to information and avenues for self-expression, they also subject them to vulnerabilities such as identity theft, misinformation, and manipulation of opinion.

Thus, the central question in the discourse on personal freedom in the digital era is how to balance individual autonomy with regulatory safeguards? Legal systems, including the Indian judiciary and legislature, are tasked with ensuring that technological advancements enhance rather than erode democratic freedoms. The discourse on personal freedom today is no longer limited to freedom from state interference but also encompasses freedom from corporate exploitation and technological overreach.

- Includes rights to privacy, identity, free association, and access to information.
- Online platforms create “digital selves” where personal autonomy is asserted.
- However, surveillance capitalism and data harvesting compromise personal liberty.

Legal Dimensions of Digital Literary Freedom

The digital revolution has redefined the way literature is created, disseminated, and consumed. Writers, poets, and thinkers no longer rely solely on traditional publishing houses; instead, blogs, e-books, online journals, and social media platforms have emerged as powerful spaces for literary expression. This democratization of literary production has expanded access and participation, allowing voices from diverse backgrounds to contribute to the cultural discourse. However, with these opportunities come significant legal challenges that shape the contours of digital literary freedom.

In legal terms, digital literary freedom is not merely the right to write and publish online; it is also the right to protect one's intellectual creations, to avoid censorship, and to exercise freedom of expression without unreasonable restrictions. In India, this freedom is constitutionally anchored in *Article 19(1)(a)* of the Constitution, which guarantees freedom of speech and expression. Yet, this freedom is subject to the limitations prescribed under *Article 19(2)*, including restrictions on grounds of sovereignty, public order, morality, and defamation. The judiciary has played a crucial role in interpreting these boundaries, as seen in *Shreya Singhal v. Union of India* (2015), where the Supreme Court struck down *Section 66A* of the *IT Act* for being an unreasonable restriction on online expression.

Another significant dimension concerns copyright and intellectual property rights, i.e., *The Copyright Act, 1957* protects authors against piracy, plagiarism, and unauthorized reproduction, but the digital age complicates enforcement, with widespread sharing of PDFs, online repositories, and AI-generated content blurring the line between originality and infringement. Similarly, issues of *Digital Rights Management (DRM)*, fair use, and licensing in online publishing platforms demand careful balancing between protecting authors and ensuring public access to knowledge.

At the same time, digital literary freedom faces challenges of censorship, both from the state and private intermediaries. *The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021* have raised debates about the extent of governmental oversight in regulating online content. While intended to curb misinformation and harmful material, such frameworks risk creating a chilling effect on free expression.

Therefore, the legal dimensions of digital literary freedom are deeply intertwined with questions of constitutional rights, intellectual property protection, censorship, and digital governance. The challenge for law and policy is to safeguard creativity and access while ensuring accountability in a rapidly evolving digital ecosystem.

1. Copyright and Intellectual Property Issues

- *Copyright Act, 1957 (India)* regulates literary works, including digital publications.
- Piracy of e-books and unauthorized circulation challenge authors' rights.
- *Case law: Eastern Book Company v. D.B. Modak* (2008) SC emphasized originality in digital works.
- International instruments: WIPO Copyright Treaty, Berne Convention.

2. Censorship and Content Regulation

- *IT Act, 2000* (India) and *IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021* regulate online speech.
- Literature critical of government or religion often faces takedown notices.
- *Case law: Shreya Singhal v. Union of India* (2015) struck down *Section 66A* of *IT Act* as unconstitutional for curbing free speech.

3. Defamation and Hate Speech

- Online publications and posts are subject to defamation laws under BNS Sections 499
- Digital hate speech raises debates on where personal liberty ends and public order begins.
- Judicial balancing act between freedom of expression and dignity of individuals.

Legal Dimensions of Digital Personal Freedom

Personal freedom in the digital age extends far beyond the traditional notions of liberty and autonomy. With the rapid expansion of digital technologies, individuals exercise their freedom not only in physical spaces but also through digital identities, social media interactions, online communication, and data-driven platforms. The legal dimensions of this freedom emerge from the tension between protecting individual rights and regulating digital spaces for security, morality, and public interest.

In the Indian constitutional framework, *Article 21* guarantees the Right to Life and Personal Liberty, which the Supreme Court has expansively interpreted to include dignity, autonomy, and privacy. In the landmark case of *Justice K.S. Puttaswamy v. Union of India* (2017), the Court recognized privacy as a fundamental right, extending constitutional protection to personal data and digital activities. Similarly, *Article 19(1)(a)* safeguards freedom of speech and expression in digital forums, but this right is subject to the reasonable restrictions outlined under *Article 19(2)*, including sovereignty, morality, and public order.

The legal regulation of digital personal freedom involves multiple aspects:

- **Privacy and Data Protection:** *The Information Technology Act, 2000* and the recently enacted *Digital Personal Data Protection Act, 2023* aim to govern how personal data is collected, processed, and protected.
- **Freedom of Expression vs. Censorship:** Courts have consistently scrutinized state-imposed restrictions on online speech, as seen in *Shreya Singhal v. Union of India* (2015), where *Section 66A* of the *IT Act* was struck down for violating free expression.
- **Cybersecurity and Surveillance:** The rise of mass surveillance, facial recognition technologies, and algorithmic profiling raises concerns of state overreach into private life, challenging the balance between security and liberty.
- **Corporate Regulation of Digital Spaces:** Beyond the state, private corporations also shape personal freedom by controlling platforms, moderating content, and monetizing user data.

Thus, the legal dimensions of digital personal freedom lie at the intersection of constitutional rights, statutory frameworks, judicial interpretations, and technological realities. The challenge for lawmakers and courts is to ensure that technological progress strengthens individual

liberty rather than eroding it, by establishing safeguards against both state excesses and corporate exploitation

1. Right to Privacy

- Recognized as a fundamental right in *Justice K.S. Puttaswamy v. Union of India* (2017).
- Issues: unauthorized surveillance, Aadhaar data, big tech companies storing personal information.
- GDPR (EU) and *Digital Personal Data Protection Act, 2023* (India) safeguard digital privacy.

2. Surveillance and State Control

- State monitoring of online content often justified for security reasons.
- Raises concerns of chilling effect on personal freedom and dissent.
- Example: Pegasus spyware controversy in India.

3. Freedom of Information and Access

- Digital libraries, RTI portals, and open access publishing empower citizens.
- However, digital divides and internet shutdowns restrict access.
- *Anuradha Bhasin v. Union of India* (2020) SC held internet access is integral to freedom of expression.

Emerging Issues

The digital age has transformed the very fabric of personal liberty, expression, and creativity. With the exponential growth of the internet, social media, artificial intelligence, and big data, individuals now exercise their freedoms in virtual spaces as much as in the physical world. Digital freedom encompasses the rights to express opinions, access information, create and share literary works, and maintain control over personal data in cyberspace. However, these freedoms are increasingly entangled with complex legal issues that arise from technological advancements, state regulation, and private corporate power.

In the Indian context, digital freedom is rooted in *Article 19(1)(a)* of the Constitution (freedom of speech and expression) and *Article 21* (right to life and personal liberty, which includes privacy and dignity). Judicial pronouncements such as *Shreya Singhal v. Union of India* (2015), which struck down *Section 66A* of the *IT Act*, and *Justice K.S. Puttaswamy v. Union of India* (2017), which recognized privacy as a fundamental right, illustrate the judiciary's pivotal role in protecting digital freedoms. Yet, emerging technologies continue to challenge these protections, creating new areas of legal uncertainty.

Some of the key emerging issues include:

- **Data Protection and Surveillance:** With the enactment of the *Digital Personal Data Protection Act, 2023*, questions remain about state surveillance, corporate data collection, and individual autonomy over personal information.
- **Artificial Intelligence and Creativity:** AI-generated content raises concern of authorship, copyright, accountability, and ethical use in literature, media, and art.
- **Censorship and Content Regulation:** The *IT Rules, 2021* and regulatory mechanisms for OTT platforms and social media raise debates about freedom of expression versus state control and intermediary liability.

- **Cross-Border Jurisdiction:** The global nature of digital communication complicates enforcement of national laws, creating conflicts in areas such as cybercrime, hate speech, and data storage.
- **Misinformation, Hate Speech, and Digital Ethics:** The unchecked spread of fake news, online hate, and algorithm-driven echo chambers threatens democratic discourse and societal harmony.

Thus, the emerging issues of digital freedom are not limited to traditional concerns of censorship or intellectual property but now extend to privacy, AI ethics, cybersecurity, digital governance, and global jurisdictional conflicts. Lawmakers, courts, and regulators face the pressing challenge of designing a legal framework that protects individual rights while addressing the risks posed by technological disruption.

In this dynamic environment, the conceptual balance between freedom and regulation becomes ever more critical. The evolving legal discourse must not only safeguard constitutional rights but also anticipate future challenges in a rapidly digitizing world.

1. Artificial Intelligence and Authorship

- AI-generated literature raises copyright ownership questions.
- Who is the author—the AI, the programmer, or the user?
- No clear legal framework exists yet.

2. Digital Morality and Community Standards

- Platforms like Twitter/X, Meta, YouTube enforce “community guidelines” that may restrict literary and personal expression.
- Debate: Should corporations act as censors?

3. Cross-border Regulation

- Digital content flows globally, but legal frameworks remain national.
- Conflict of laws in cases of defamation, obscenity, or copyright violation. Personal freedom online is under constant threat from state and corporate surveillance

Suggested Policy & Legal Reforms to Balance Digital Freedom with Regulation:

1. Strengthen and Operationalize Data Protection with Rights-based Safeguards

Recommendation

- Fully operationalize the Digital Personal Data Protection Act (DPDP Act) with clear subordinate rules, strong enforcement powers for the regulator, expedited grievance redress, robust consent standards, and explicit protections for vulnerable groups (children, minorities).
- Require data minimisation, purpose limitation, data portability, and easy erasure (right to be forgotten) as enforceable rights.

2. Reform Intermediary Liability & Content Regulation to Protect Expression

Recommendation

- Amend intermediary rules to ensure: (a) due process for content takedown (notice, counter-notice, time-bound

adjudication); (b) narrow, proportionate grounds for emergency takedown; (c) independent oversight or appellate mechanism outside the intermediary; and (d) clearer limits on government blocking orders with judicial review.

3. Privacy-Sensitive Surveillance & Strict Oversight Recommendation

- Enact statutory limits on state surveillance: surveillance authorisation must be judicial/special-authority based, narrowly tailored, time-limited, and accompanied by oversight, reporting, and remedy mechanisms. Require data-minimisation and retention limits for intelligence and law-enforcement usage.

4. Algorithmic Transparency, Explainability & Accountability

Recommendation

- Require significant data fiduciaries / platforms (e.g., large social networks, major e-publishers) to: (a) conduct algorithmic impact assessments (AIA) before deploying recommender or moderation algorithms; (b) maintain model cards / high-level explanations of key automated decisions; (c) offer human review and effective appeal routes for important adverse actions (de platforming, demonetisation, takedowns).

5. Copyright and AI-Generated Content: New Rules for Authorship & Fair Use

Recommendation

- Clarify copyright law for AI: define authorship and ownership for machine-assisted works, require disclosure when significant AI contribution is used, and update fair-use / licensing frameworks to allow research and preservation while protecting creators’ economic rights. Encourage interoperable licensing (standard open licenses) for digital literary works.

6. Proportional Criminal Law & Decriminalisation of Overbroad Online Offences

Recommendation

- Reassess and narrow criminal sanctions for online speech; remove or re-draft vague provisions that enable arbitrary arrests and criminalisation for non-serious online expression. Ensure civil remedy pathways are used where proportionate.

7. Regulator Design: Independence, Multi-stakeholder Governance & Procedural Fairness

Recommendation

- The national data regulator / digital regulator should be independent, transparent, technically competent, and have multi-stakeholder consultative processes (civil society, academia, industry, judges). It must publish decisions and rationale, and provide expedited quasi-judicial dispute resolution for users.

8. Access, Digital Literacy & Inclusive Infrastructure Recommendation

- Invest in digital inclusion: free/affordable access, public digital libraries, open licensing for government publications, and national programs for media & data-literacy that teach rights, privacy hygiene, and how to recognize misinformation.

9. Cross-Border Cooperation & Data Flows: Harmonised Standards

Recommendation

- Negotiate bilateral/multilateral frameworks for cross-border data flows, law enforcement cooperation, and safe harbour for research and preservation. Use adequacy frameworks or contractual clauses to secure overseas transfers.

10. Procedural Remedies, Legal Aid & Access to Justice

Recommendation

- Create streamlined, low-cost legal remedies for online harms (specialised tribunals, online filings), strengthen legal aid for victims of online abuse and creators facing unfair takedowns, and require platforms to provide easy, quick dispute resolution.

11. Sunset Clauses, Periodic Reviews & Tech-Neutral Drafting

Recommendation

- Draft laws and subordinate rules with sunset clauses or mandatory periodic reviews to account for rapid tech change; adopt tech-neutral principles where possible (focus on harms rather than specific technologies).

12. Public Interest Exceptions & Research Access

Recommendation

- Provide limited, transparent public-interest exceptions for research, journalism, and archiving (with safeguards), so that scholarship and public accountability are not unduly restricted by over-broad IP or data restrictions.

Conclusion

Digital technologies have opened new avenues for literary expression and personal autonomy. Yet, these freedoms are deeply contested in the legal sphere, where copyright disputes, censorship, surveillance, and privacy violations constantly arise. The challenge for law and society is to strike a fair balance between protecting rights and regulating misuse. Ensuring digital literary and personal freedom in the future will require continuous legal reform, vigilant judiciary, responsible corporate behaviour, and informed citizens.

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