

INTERMEDIARY LIABILITY AND REASONABLE RESTRICTIONS ON FREE SPEECH: A STUDY OF SEDITION LAWS AND DIGITAL REGULATION IN INDIA

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ABSTRACT

The digital age has transformed the role of online intermediaries from passive conduits of information into hugely influential arbiters of public discourse, exercising substantial power through the rules they set for interaction between content publishers and a global audience. This paper examines that power specifically through the especially sensitive lens of sedition law enforcement and hate speech moderation, situating India's colonial-origin sedition provision, now Section 152 of the Bharatiya Nyaya Sanhita, 2023, within the broader constitutional framework of Article 19(1)(a) and the intermediary liability regime the Information Technology Act, 2000 and its associated rules establish. It traces the historical evolution of sedition law from its English origins through Section 124A of the Indian Penal Code to Section 152 BNS, and examines the constitutional challenge to Section 152 the Supreme Court has since agreed to hear, tagged with the long-pending challenge to Section 124A itself. Drawing on landmark decisions including Kedar Nath Singh, Shreya Singhal and Justice K.S. Puttaswamy, and on comparative frameworks in the United States and the European Union, the paper argues that intermediary regulation in India risks producing a chilling effect through vague statutory language and executive-driven takedown mechanisms operating with insufficient judicial oversight, and it proposes reform capable of preserving legitimate state interest in security and public order without collapsing the constitutional distinction between advocacy and incitement that Article 19 was designed to protect.

KEYWORDS: *Intermediary Liability; Sedition; Article 19; Bharatiya Nyaya Sanhita; Content Moderation.*

1. INTRODUCTION

Independent India inherited a long tradition of prosecuting individuals under sedition law from its colonial predecessor. Both the British colonial government and the post-independence Indian state have, at various points, arrested and prosecuted individuals for criticism of government, and Indian courts have consistently been called upon to draw the line between legitimate criticism and incitement to violence. Early judicial decisions upheld the validity of penalising speech amounting to incitement without offering deep justification for criminalising speech critical of government generally, and the Supreme Court subsequently carved a more protective path, holding that mere words or deed, spoken or written, showing disaffection toward the government established by law do not, without more, constitute sedition.¹

In 2021, the Supreme Court reiterated that every journalist enjoys protection in publishing material of public interest, whether favourable or critical of government.² Notwithstanding this judicial clarification distinguishing criticism

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¹ Kedar Nath Singh v. State of Bihar, A.I.R. 1962 S.C. 955 (India).

² Vinod Dua v. Union of India, (2021) 4 S.C.C. 322 (India).

from incitement to revolt, police continue to register cases against individuals for expressing disaffection with government, and investigating agencies typically lack the preliminary checks and filters the executive and legislative branches themselves possess. These legislative protections remain largely theoretical wherever intermediaries function as de facto arbiters of public morality, driven by fear of judicial intervention, regulatory backlash, financial penalty, or the loss of licence to operate in India. This paper accordingly examines the chilling effect sedition law continues to exert on government criticism, the liability intermediaries bear under the Information Technology Rules, and the manner in which the Supreme Court's own protective interpretations of sedition law risk dilution through intermediary-driven self-censorship in the digital public sphere.

1.1 Objectives of the Study

- To examine intermediary liability under Indian law, particularly the Information Technology Act, 2000 and its notified rules.
- To critically evaluate sedition law in India, tracing its evolution from Section 124A of the Indian Penal Code to Section 152 of the Bharatiya Nyaya Sanhita, 2023, and its implications for online speech.
- To analyse the constitutional dimensions of free speech under Article 19(1)(a) and the permissible restrictions under Article 19(2), specifically in the digital context.
- To examine landmark judicial interpretation, including Kedar Nath Singh, Shreya Singhal and Puttaswamy, in shaping the boundary between intermediary liability and free speech.
- To identify, through comparative study of the United States and the European Union, best practice capable of informing a balanced Indian regulatory approach.

1.2 Research Methodology

This study adopts a doctrinal methodology, examining constitutional provision, principally Articles 19(1)(a) and 19(2), the Bharatiya Nyaya Sanhita, 2023, the Indian Penal Code, 1860 as historical reference, the Information Technology Act, 2000 and the IT Rules, 2021, and landmark judicial decision, supplemented by secondary literature on intermediary liability, sedition law and digital regulation.

1.3 Conceptual Framework

The legal conditions facilitating the spread of seditious or inflammatory content online arise as much from platform architecture that algorithmically amplifies

user-generated content for profit as from the ease with which such content can itself be created or manipulated. With potentially billions of individuals worldwide exchanging both intimate and politically significant content, social media's structural design creates conditions in which political figures, activists and ordinary citizens alike can rapidly acquire outsized influence over public discourse. From this follows a genuine regulatory dilemma: platforms hosting such content occupy the largest private publishing space the world has known, and content that would, in an earlier era, have been distributed through a comparatively small number of accountable publishers now circulates through infrastructure controlled by a small number of private companies whose decisions about what to host or remove carry consequence for public discourse that traditional free speech theory, developed for a print and broadcast era, does not straightforwardly address.

1.4 Scope

This paper confines its analysis to intermediary liability and sedition law as they intersect in the Indian context, drawing comparative material from the United States and European Union specifically to illuminate that intersection rather than to undertake a comprehensive comparative survey of intermediary regulation generally. It covers statutory and judicial developments through August 2026, including the pending constitutional challenge to Section 152 of the Bharatiya Nyaya Sanhita.

2. SEDITION LAW: COLONIAL ORIGINS AND HISTORICAL DEVELOPMENT

2.1 Colonial Origins of Sedition Law

Sedition law is substantially a product of British colonial rule, with an early instance of the concept traceable to a 1735 prosecution for publishing material critical of colonial government. Sedition and closely related offence effectively criminalise what many contemporary constitutional traditions would instead treat as a core democratic function, criticism of the state and its representative, and several common law jurisdictions, India among them, continue to apply sedition law derived substantially from this colonial template notwithstanding its documented risk to free expression, free press and international human rights standard.

The concept's deeper historical roots extend further still. The English law of seditious libel that Britain exported to its colonies reflected the Crown's anxiety regarding revolutionary agitation and mass rebellion, and medieval and early modern English sedition law accordingly criminalised agitation against government narrowly, distinguishing that narrow prohibition from a broader protection of legislative speech the English constitutional tradition otherwise prized. The Tudor dynasty's contested legitimacy supplied the immediate

impetus for the first English sedition statute, the Treasons Act of 1534, which defined the promotion of disobedience to or contempt for royal command as treason, a statute whose consequence extended, considerably beyond its immediate historical context, into the colonial legislative template Britain later exported across its empire.³

2.2 Section 124A: From the Indian Penal Code to the Bharatiya Nyaya Sanhita

Section 124A was inserted into the Indian Penal Code in 1870 specifically to address the perceived need for a dedicated sedition provision, part of a broader colonial strategy to suppress dissenting voice; Mahatma Gandhi famously described it as the prince among the political provisions of the Penal Code designed to suppress the liberty of the citizen. The provision drew on multiple sources, including the English Treason Felony Act, the common law of seditious libel, and English sedition jurisprudence more generally, and was substituted in 1898 with a broadened formulation extending liability from exciting disaffection toward government to additionally criminalise bringing government into hatred or contempt. The offence carried severe consequence throughout its history, cognizable and non-bailable, with punishment extending to life imprisonment or a term of up to three years depending on the gravity found, a broad sentencing range granting courts considerable discretion and one that has often produced judicial reluctance to discharge accused persons even at a preliminary stage.

With the Bharatiya Nyaya Sanhita, 2023 coming into force on 1 July 2024 and replacing the Indian Penal Code, Parliament introduced significant modification to offences against the state, replacing Section 124A with Section 152, retitled acts endangering the sovereignty, unity and integrity of India. The provision criminalises exciting or attempting to excite secession, armed rebellion or subversive activity, encouraging separatist feeling, or endangering sovereignty, unity or integrity through word, sign, visible representation, electronic communication or financial means, while expressly preserving an exception for comment expressing disapprobation of government measures or administrative action, made with a view to obtaining lawful alteration, provided such comment does not itself excite the prohibited conduct.⁴ Section 152 accordingly broadens the previous provision's scope beyond disaffection toward government specifically to threats against national sovereignty and integrity more generally, a reorientation its defenders present as a modernised national security framework and its critics present, as this paper's next section examines, as sedition merely repackaged in broader and more indeterminate language.

³ Law Commission (UK), Codification of the Criminal Law: Treason, Sedition and Allied Offences, Working Paper No. 72 (1977).

⁴ Bharatiya Nyaya Sanhita, 2023, § 152, No. 45, Acts of Parliament, 2023 (India).

3. FROM SECTION 124A TO SECTION 152 BNS: THE PENDING CONSTITUTIONAL CHALLENGE

Post-independence Indian courts have had extensive opportunity to interpret Section 124A, particularly its relationship to the constitutional guarantee of free speech. In *Kedar Nath Singh v. State of Bihar*, a Constitution Bench upheld Section 124A's validity while confining its scope to speech accompanied by, or intended to incite, violence or public disorder, treating mere criticism or disapprobation of government as falling outside the provision entirely. This judicial limitation supplied the operative framework applying Section 124A in a manner reconciling national security with free speech for over six decades, but Section 152's introduction of new statutory language and definitional structure has created genuine ambiguity regarding whether the *Kedar Nath Singh* limitation, developed specifically for the older provision's text, applies with equal force to a differently worded successor.

This ambiguity is no longer merely theoretical. On 11 May 2022, the Supreme Court, hearing a challenge to Section 124A brought by retired Major General S.G. Vombatkere, placed the provision in abeyance, directing that no new prosecution be registered and no coercive measure taken under it pending re-examination.⁵ The matter was subsequently referred toward a larger bench, and in 2023 the Court declined the Union's request to defer that reference merely because the Bharatiya Nyaya Sanhita was then imminent, reasoning that the new penal law would operate prospectively while the validity of prosecutions already launched under Section 124A would still require independent adjudication.

Vombatkere subsequently filed a further petition specifically challenging Section 152 BNS, contending that although its language differs from Section 124A, its substantive content, criminalising broad and imprecise category of speech including subversive activity, encouragement of separatist feeling and acts endangering unity or integrity, remains functionally equivalent, if not more expansive, than the provision it replaced. On 8 August 2025, a three-judge Bench comprising then Chief Justice B.R. Gavai and Justices K. Vinod Chandran and N.V. Anjaria issued notice to the Union government on this challenge, tagging it with the pending batch of petitions against Section 124A itself.⁶ As of this writing, both the original Section 124A challenge and the newer Section 152 challenge remain pending before a seven-judge bench yet to be constituted, leaving the central constitutional question, when does speech critical of government become an offence against the state, formally unresolved notwithstanding *Kedar Nath Singh*'s six-decade vintage.

⁵ S.G. Vombatkere v. Union of India, (2022) 7 S.C.C. 433 (India).

⁶ S.G. Vombatkere v. Union of India, W.P. (C) (Sup. Ct. India, notice issued Aug. 8, 2025).

In a related clarificatory order delivered on 21 May 2026, a Division Bench of Chief Justice Surya Kant and Justices Joymalya Bagchi and Vipul M. Pancholi held that pending Section 124A proceedings may continue where the accused raises no objection, opening a narrow procedural avenue for accused persons awaiting trial under the Court's 2022 freeze without resolving the underlying constitutional question.⁷ This procedural development leaves the substantive proportionality and liberty concerns central to both the Section 124A and Section 152 challenges, grounded respectively in Articles 14 and 21, squarely open for the constituted larger bench to resolve, and it means that any assessment of intermediary liability for sedition-adjacent content in India, this paper's Section 4 discussion notwithstanding, is presently being conducted against a genuinely unsettled statutory backdrop.

This unsettled backdrop carries direct consequence for intermediary conduct specifically. An intermediary confronted with a government takedown request grounded in Section 152, or with user-generated content arguably implicating that provision, cannot presently rely on any judicially settled reading of the section comparable to the *Kedar Nath Singh* limitation that has governed Section 124A for over sixty years. Absent that settled interpretive guidance, a risk-averse intermediary has every incentive to comply with a takedown request broadly rather than risk exposure to Section 152 liability, or to civil and criminal consequence flowing from a failure to act with the expedition Section 79 of the Information Technology Act requires. The pending litigation this section has traced accordingly does more than leave an abstract constitutional question open; it structurally incentivises the over-compliance and collateral censorship this paper's Section 4 examines as an independent constitutional concern, compounding rather than merely coexisting with the vagueness problem Section 152's own statutory language separately presents.

4. DIGITAL DISSENT AND ARTICLE 19(1)(A): CONSTITUTIONAL LIMITS ON EXECUTIVE CENSORSHIP

The exponential growth of digital communication has transformed the internet into a principal arena for democratic participation, with online platforms functioning as spaces for political deliberation, social mobilisation and public criticism of government policy. Increased governmental scrutiny of these platforms must accordingly be examined through Article 19(1)(a), which guarantees every citizen the fundamental right to freedom of speech and expression.⁸ That freedom is not absolute and may be restricted under Article 19(2) on defined grounds, including sovereignty and integrity of India, security of the state, public order, decency and incitement to offence, but any such

⁷ Order dated May 21, 2026 in *S.G. Vombatkere v. Union of India*, Sup. Ct. India (2026).

⁸ India Const. art. 19, cl. 1(a).

restriction must satisfy the constitutional requirements of legality, necessity and proportionality, and executive action cannot operate beyond these narrowly tailored grounds.

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 have attracted significant constitutional debate on precisely this point.⁹ The absence of precise statutory definition for terms such as fake, misleading or anti-national information creates a regulatory framework susceptible to expansive executive interpretation, risking the overbreadth and chilling effect concerns central to Indian free speech doctrine. Where a regulatory mechanism permits executive-controlled bodies to determine the permissibility of speech without transparent, judicially reviewable safeguard, the boundary between legitimate regulation and unconstitutional censorship becomes precarious.

The Supreme Court, in *Shreya Singhal v. Union of India*¹⁰, held that speech may be curtailed only where it bears a proximate and direct nexus to a ground enumerated in Article 19(2), and it struck down Section 66A of the Information Technology Act, 2000 for vagueness on the reasoning that statutory uncertainty itself produces a chilling effect deterring lawful expression, a holding directly relevant to any regulatory measure empowering executive authorities to order content takedown without a clear judicial determination.

Surveillance and traceability mandate must similarly be assessed against the constitutional right to privacy affirmed in *Justice K.S. Puttaswamy (Retd.) v. Union of India*¹¹, which held privacy intrinsic to dignity and autonomy under Part III and subject to a strict test of legality, legitimate aim, proportionality and procedural safeguard for any limitation. Compelling intermediaries, encrypted messaging service specifically, to enable message traceability arguably undermines anonymous speech, historically an important instrument of dissent, and risks converting intermediaries into instruments of continuous surveillance that chill constitutionally protected political expression.

The imposition of proactive monitoring obligation on intermediaries compounds this concern. Because the state ordinarily bears the burden of justifying any restriction under Article 19(1)(a), a regulatory regime that indirectly compels platforms toward pre-emptive censorship to avoid liability effectively shifts that burden onto private entities, producing over-compliance and the excessive removal of lawful speech, a phenomenon commentators describe as collateral censorship, which undermines the core democratic

⁹ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (India).

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

¹¹ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 S.C.C. 1 (India).

purpose free expression serves. Proponents of heightened intermediary liability argue that digital platforms differ materially from traditional publishers because they algorithmically curate, amplify and monetise user-generated content, but even accepting that platforms exercise a genuine measure of editorial discretion, constitutional scrutiny of the resulting censorship cannot be diluted merely because a private intermediary, rather than the state directly, performs the removal.

5. INTERMEDIARIES IN THE DIGITAL AGE: DEFINITION, OBLIGATION AND CONTENT MODERATION

The term intermediary carries no single settled legal meaning; in ordinary usage it denotes an entity positioned between two others, and in the digital context it generally refers to an information service provider facilitating access to, and the spread of, internet-based information through its involvement in transmitting, receiving or storing digital data.

5.1 Definition and Types of Intermediary

The Information Technology Act, 2000 defines an intermediary as any person who, on behalf of another, receives, stores or transmits an electronic record or provides any service with respect to that record, encompassing internet service providers, network service providers, search engines, web-hosting service providers, online marketplaces, social media platforms and cyber cafes.¹² This positions the intermediary as a third party between the publisher of information and the end user, whose principal function is to receive, store, process or retransmit content generated by others rather than to author that content itself. The European Union's regulatory framework defines intermediaries in broadly comparable terms, exempting specific categories including mere conduit, caching and hosting services from liability provided defined statutory condition are met, reflecting a functional rather than definitionally uniform approach common across jurisdictions: legal systems generally agree on the practical necessity of an intermediary category without converging on identical statutory language.

5.2 Responsibilities and the Rationale for Liability Exemption

Intermediaries hold both right and exemption under Indian and comparative law, exemptions substantially justified by the objective of preventing a chilling effect on the free flow of information the digital space is meant to enable. Section 79 of the Information Technology Act supplies India's principal safe harbour, exempting an intermediary from liability for third-party content provided it satisfies defined due diligence obligation and, upon acquiring actual

¹² Information Technology Act, 2000, § 2(1)(w), No. 21, Acts of Parliament, 2000 (India).

knowledge of unlawful content, expeditiously removes or disables access to it.¹³ This conditional safe harbour model, common across the jurisdictions this paper's Section 6 examines, reflects a considered legislative judgment that intermediaries should not bear the same liability standard as original publishers, given both the sheer volume of content passing through major platforms and the chilling effect a stricter standard would impose on the intermediary's willingness to host user-generated speech at all.

5.3 Intermediaries as De Facto Content Moderators

The question of intermediary liability seeks to balance the preservation of free speech against holding platform providers genuinely accountable for content their services enable, and the stakes of that balance for the platform itself, potential survival or extinction depending on the liability standard ultimately applied, shape platform conduct considerably. For the ordinary user, the decision to publish content no longer ends with a post button; it implicates the surrounding law governing communication, the relationship between author and intermediary, and the intermediary's own relationship with the state. Content moderation algorithms and platform personnel accordingly now perform the practical function of determining where legitimate public debate ends and offence, whether terrorism, hate speech or sedition-adjacent expression, begins.¹⁴

Notice-and-takedown procedure raises comparable difficulty. Ambiguity in procedural terminology, what precisely constitutes processing a complaint, or notifying a user whose content is flagged, has led commentators to argue that these obligations have, in practice, mutated the notice-and-takedown mechanism into what is sometimes described as a censoring machine, since users whose content is wrongly removed frequently possess no meaningful avenue to complain or seek reinstatement. Content removal driven by intellectual property complaint or internet security concern accordingly proceeds, in many instances, without adequate regard to its effect on the speaker or the audience whose access to that speech is thereby curtailed.

6. COMPARATIVE FRAMEWORKS: THE UNITED STATES AND THE EUROPEAN UNION

Comparative practice illuminates the range of regulatory approach available for addressing online speech that falls short of incitement to imminent violence yet remains genuinely contested.

¹³ Information Technology Act, 2000, § 79, No. 21, Acts of Parliament, 2000 (India).

¹⁴ Danielle Keats Citron, *Extremist Speech, Compelled Conformity, and Censorship Creep*, 93 Notre Dame L. Rev. 1035 (2018).

6.1 The United States

Section 230 of the Communications Decency Act, 1996 supplies broad immunity to intermediaries for third-party content, enacted in direct response to a judicial precedent that had treated a platform as a publisher, and therefore liable, precisely because it had voluntarily moderated some but not all third-party content.¹⁵ American courts have applied this immunity broadly and consistently, reflecting both the statute's text and its legislative history, and the resulting regime has permitted intermediaries to host extensive volumes of user-generated content without the liability exposure a stricter regime would create, a result that has both preserved the internet's democratising potential and drawn sustained criticism from commentators concerned that platforms consequently bear too little responsibility for harmful content they host. Reform efforts directed at narrowing Section 230 face considerable political resistance from a well-resourced technology sector, and legislators otherwise divided along ideological line have shown notable, if imperfect, unity in protecting the broader interests of America's advanced information sector.

6.2 The European Union

The European Union has pursued a more overtly structured, statute-based approach, combining industry self-regulation, due diligence obligation directed at child protection and online safety, and risk-based categorisation of platform activity.¹⁶ The E-Commerce Directive supplied the foundational EU framework, establishing a harmonised legal regime intended to increase confidence in cross-border digital commerce and to promote the availability of information society services across member states by limiting the restrictions individual states could otherwise impose, while providing conditional liability exemption for intermediaries performing defined functions, mere conduit, caching and hosting, subject to a general obligation to act expeditiously upon acquiring actual knowledge of illegal content.¹⁷ The subsequent Digital Services Act has extended this framework considerably, introducing tiered obligation calibrated to platform size and risk, with the largest platforms subject to the most exacting transparency and systemic risk-assessment requirement.

7. CHALLENGES, EMERGING TECHNOLOGY AND THE PATH FORWARD

In the rapidly evolving landscape of digital regulation, intermediary liability continues to hinge substantially on the specific statutory provision governing it, and existing regulatory frameworks fall short, in important respect, of adequately safeguarding free speech and viewpoint diversity. A constitutional

¹⁵ 47 U.S.C. § 230 (2018).

¹⁶ Regulation (EU) 2022/2065 (Digital Services Act), 2022 O.J. (L 277) 1.

¹⁷ Directive 2000/31/EC, 2000 O.J. (L 178) 1 (EC).

challenge to Section 79 of the Information Technology Act, tested against the backdrop of contemporary speech regulation, would examine directly whether the conditional safe harbour that provision supplies remains constitutionally adequate given the expanding scope of executive-driven takedown obligation this paper's Section 4 has documented.¹⁸ Notwithstanding repeated calls for reform across comparable common law jurisdictions, statutory design capable of safeguarding online free speech while maintaining coherent, sustainable regulatory policy remains substantially unrealised.

7.1 Emerging Technology and Its Effect on Free Expression

The contemporary digital era, often termed the information age, has fundamentally reshaped how individuals create, disseminate and engage with information, with platforms now performing a critical function in providing citizens access to information and the means of political communication and self-expression. Emerging technology has generated recurring apprehension, chiefly concern that expanding technological capability will be met with correspondingly expanded criminalisation of speech, notwithstanding the historical and international recognition free expression has long received. Technology itself carries no inherent moral valence; how it shapes individual and collective behaviour reflects human choice, intention and interaction rather than any technological determinism. The ease with which digital tools now permit the creation, modification and rapid publication of information has correspondingly produced effects that cut in genuinely opposing directions, improved access to information and expanded participation in public discourse on one hand, and mounting concern regarding news manipulation, synthetic media and extremist content amplification on the other, a duality regulatory design must reckon with directly rather than resolve through blanket restriction or blanket immunity alone.

8. CONCLUSION

This paper has examined the contours of intermediary liability in India through the lens of constitutional free speech guarantee and the continued relevance of sedition-related offence in the digital sphere. By analysing the potential liability of content-hosting platforms, content distributors and search engines, it has argued that regulation of online intermediaries must remain firmly anchored in the constitutional framework Article 19(1)(a) establishes.

India's approach to intermediary liability reflects a complex interaction between colonial legislative inheritance, contemporary security concern and democratic constitutionalism, a tension the pending Supreme Court challenge to Section 152 BNS, examined in this paper's Section 3, has now placed squarely

¹⁸ Information Technology Act, 2000, § 79, No. 21, Acts of Parliament, 2000 (India).

before the judiciary once again. While prevention of crime and preservation of public order constitute legitimate ground for restriction under Article 19(2), any monitoring, reporting or takedown obligation imposed upon intermediaries must satisfy the constitutional standards of legality, necessity and proportionality; expansive or vague regulatory mandate risks the chilling effect this paper has documented throughout, particularly where intermediaries, acting from regulatory caution, over-comply with executive directive rather than risk sanction.

The constitutional distinction between advocacy and incitement remains central to this analysis. Mere hosting or transmission of controversial, dissenting or deeply unpopular content cannot trigger liability absent a clear, proximate connection to a ground Article 19(2) enumerates; collapsing that distinction would effectively deputise intermediaries as private censors, undermining the state's own constitutional obligation to justify speech restriction through transparent, legally circumscribed mechanism rather than delegated private discretion. The digital public sphere performs functions central to democratic governance, facilitating accountability, enabling social mobilisation and providing a platform for marginalised voice, meaning that speech online is participatory and structural in character rather than merely expressive, and regulatory frameworks must accordingly balance national security and public order against the constitutional commitment to open discourse and political dissent with particular care.

As the pending challenges to Section 124A and Section 152 BNS proceed toward eventual resolution by a larger bench, constitutional fidelity requires restraint: executive authority over online expression must remain subject to genuine judicial oversight and constitutional scrutiny, since freedom on the internet is not synonymous with instability but represents the contemporary expression of the democratic right to seek, receive and impart information and idea. The durability of India's constitutional democracy depends substantially on preserving a robust sphere for dissent, however uncomfortable or politically inconvenient that dissent may prove, and intermediary regulation must accordingly evolve to protect both legitimate security interest and the foundational guarantee of free expression, a balance only a framework rigorously adherent to Article 19(1)(a), read harmoniously with the limited exception Article 19(2) permits, can ultimately sustain.