
WOMEN EMPOWERMENT AND RIGHT TO INTERNET ACCESS: INTERNET AS A TOOL TO CLOSE THE GENDER GAP

Vedika Singhvi, O.P. Jindal Global University

ABSTRACT:

This article explores how women's empowerment can be achieved by recognizing their right to internet access, with a focused on internet as a means to break the barriers and promote gender equality. The article conducts a comparative legal analysis of the internet access regimes in the United States, the United Kingdom, the European Union, and India. The article aims to differentiate between the various legislations in order to decipher whether access to the internet can be considered a fundamental right in such a jurisdiction.

Further, the Indian Constitution has recognised that the right to Internet access becomes a component of both the right to education and the right to privacy guaranteed and established as under Article 21.¹ Additionally, the right to internet access is protected under freedom of speech and expression, right to carry trade and commerce, and right to information under Article 19(1) of the Indian Constitution.²

The article aims to portray that internet access is essential for effectively exercising fundamental rights, such as the freedom of speech and expression, information access, education, and the ability to trade and conduct business, through which the gender gaps and disparities can be diminished. This article further contemplates that the internet plays a vital role in women's empowerment by asserting inclusive education, economic participation, and civic engagement, thus protected under the Indian Constitution.

¹ *Faheema Shirin v. state of Kerala*, (2019) 4 KER LJ 634.

² *Anuradha Bhasin v. Union of India*, AIR 2020 SC 1308.

INTRODUCTION

In the modern era, gaining access to the internet has become a revolutionary medium as it has influenced many facets of society, including avenues for communication, education, commerce, marketing, management, and healthcare, among others.³ It is observed that the internet eliminates barriers by providing novel prospects and potential opportunities. Recently, in an effort to reduce children's excessive mobile phone use, a local Panchayat in the Jalore region of Rajasthan took the decision to forbid women from using smartphones with cameras in 15 villages.⁴ Daughters-in-law and unmarried girls in the community are subject to this ban and prohibition, which was bound to be implemented from January 2026.⁵ The new regulation prohibits women from carrying such smartphones at social events, public events, weddings, or even when visiting neighbours' homes.⁶ Instead, they have been advised to use basic keypad mobile phones for communication; thus, the prohibition severely restricts the use of smartphones outside of the home and goes beyond public areas.⁷ However, due to continuous backlash from the general public of the state, the Panchayat was forced and compelled to revoke such a regulation; yet this regulation is implemented on a discretionary basis, wherein the patriarchs of the family can prohibit women from using smartphones. In the digital era, the internet has become a resource for women's empowerment by reducing the gender gap and promoting gender equality. Such regulations are in blatant violation of various Articles of the Indian Constitution. Article 14⁸ states that no one on Indian territory should be denied equality before the law or equal protection under the law by the State.⁹ Moreover, Article 15 prohibits the state from discriminating against any citizen solely on the grounds of race, religion, gender, or sex, thereby ensuring equality and access to public spaces.¹⁰ Thus, such regulations are in complete violation of the fundamental rights of women in India and are arbitrary in nature. Moreover, the internet has become a prerequisite in exercising several fundamental rights as envisaged under the part III of the Indian Constitution, as a result, closing the gaps of gender

³ Kartik Chauhan and Dr. Mayank Tomar, *Internet Use and Its Connection with Women Empowerment*, 1-2 (international Journal of Advances in Engineering and Management (IJAEM) Volume 5, Issue 7 July 2023,) https://ijaem.net/issue_dcp/Internet%20Use%20and%20Its%20Connection%20with%20Women%20Empowerment.pdf

⁴ HT Correspondent, *Rajasthan panchayat bans smartphones for women in 15 villages of Jalore*, (Hindustan Times), 2026, <https://www.hindustantimes.com/cities/pune-news/locals-identified-pawar-by-his-wristwatch-101769627821247.html>

⁵ Ibid

⁶ Ibid

⁷ Ibid

⁸ The Constitution of India, 1950, Article 14.

⁹ The Constitution of India, 1950, Article 14.

¹⁰ The Constitution of India, 1950, Article 15.

discrimination and disparity. The internet has been crucial in safeguarding fundamental rights, including access to information and ideas, as well as the freedom of speech and expression.¹¹

Additionally, the Internet offers a plethora of opportunities for inclusive, cost-effective, and accessible education, making it an essential instrument for promoting the right to education under the Indian Constitution.¹² Thus, it highlights the need to promote digital literacy and combat the lack of access to information. In addition to the aforementioned, India has become a global centre for IT owing to the country's economic globalization and the swift advancements in information and technology, wherein certain businesses and companies rely entirely on the internet.¹³ An internet-based right to trade also promotes consumption and choice. Consequently, the Indian Constitution guarantees the freedom of trade and business via the internet.

INTERNATIONAL JURISPRUDENCE

All forms of discrimination have been prohibited and criminalised, wherein discriminatory clauses have been removed from civil, criminal, and personal status laws that govern marital and family ties, violence in all its manifestations, women's rights to property and ownership, and women's rights to work, employment, and politics. Steps have been taken to realise women's de facto enjoyment of their human rights through the creation of an enabling environment, which includes the adoption of policy measures, the improvement of enforcement and monitoring mechanisms, and the implementation of legal literacy and awareness campaigns at all levels.

International regulations have been taking measures to ensure and abolish any form of discrimination against women, whether in a physical setup or online.

Further, as established under the right to freedom of expression and opinion, which includes the freedom to seek, receive, and disseminate ideas and information through any media regardless of its boundaries, as guaranteed by article 19 of the UDHR. Although the term "internet" is not specifically included in Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which deals with freedom of expression,

¹¹ *Faheema Shirin v. state of Kerala*, (2019) 4 KER LJ 634.

¹² *Ibid*

¹³ *Anuradha Bhasin v. Union of India*, AIR 2020 SC 1308.

and related UN resolutions firmly impose a right to access it, viewing it as a crucial modern medium for acquiring, obtaining, and disseminating information, essential for enjoying other rights, though this right may be subject to necessary, proportionate restrictions.¹⁴ The Internet is essential to achieving the full realization of human rights, especially when it comes to ending hunger, poverty, and sickness, as well as advancing gender equality and women's empowerment. Furthermore, the internet acts as an important tool for imbuing education and awareness; therefore, as encapsulated under article 26 of the UDHR, "*Everyone has the right to be educated about the Internet and to use the Internet for education.*"¹⁵ This further ensures that the right to education for women is not restricted, and women enjoy equal treatment to that of men globally.¹⁶

Every individual has an equal right to access, usage, and a secure, open internet, as defined by the United Nations (UN) Charter of Human Rights and Principles of the Internet. It was acknowledged that people ought to receive the same human rights while making use of the internet and other technologies as they do offline, including the freedom of expression. Furthermore, in light of The Human Rights Council passed a resolution on July 13, 2021, addressing the advancement, defence, and enjoyment of human rights on the Internet (47/16). The right to freedom of opinion and expression, information and communications technologies, the promotion, defence, and enjoyment of human rights on the Internet, the right to privacy in the digital age, and the right to freedom were all addressed in this resolution, which recalled multiple resolutions of the Commission of the Human Rights Council.

of opinion and expression and information and communications technologies for development; to fulfil the State's primary responsibility to promote and protect fundamental freedoms.¹⁷ It was further observed in the Resolution (47/16) that nearly half of the world's population lacks Internet access, particularly women and girls, and further acknowledging the gender digital divide, which includes notable gender differences in access to and use of information and communications technology. As a result, it undermines women's full enjoyment of their human rights and expresses concern that many forms of the digital divide persist between and within

¹⁴ International Covenant on Civil and Political Rights, 1976, Article 19.

¹⁵ The Universal Declaration of Human Rights, 1948, Article 26.

¹⁶United Nations, (*the charter of human rights and principles for the Internet*), the Internet Governance Forum, 4th Edition, 2014

<https://www.ohchr.org/sites/default/files/Documents/Issues/Opinion/Communications/InternetPrinciplesAndRightsCoalition.pdf>

nations. Therefore, it was essential to highlight women's empowerment through expanding their access to the internet, thus encouraging women to partake in training on information and communications technology, and encouraging them to pursue careers in the sciences and information and communications technology.¹⁸ The Resolution (47/16)¹⁹ further called upon all the member States to urge all nations to step up efforts to close digital gaps, especially the gender gap, and to improve information and communications technology use to support everyone's full enjoyment of their human rights by:

- a. facilitating a safe online space, encourages participation from everyone, is free from prejudice, and takes into account those who experience structural injustices;
- b. Continuing and expanding initiatives to support Internet-based information access as a way to enable inclusive and reasonably priced public services, including health, education, and justice;
- c. Encouraging equitable opportunities in information and communications technology design, development, governance, and implementation, including gender equality;
- d. Upholding their human rights obligations while creating legislation and oversight mechanisms.

Furthermore, the Universal Declaration of Human Rights, the Beijing Declaration, and the Conventions on Elimination of All Forms of Discrimination Against Women, 1979²⁰ ("CEDAW") contain principles that require State parties to take appropriate action to prevent discrimination against women in any form.

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¹⁸ *Digital gender gap is a barrier to women's full participation in society*, (Commonwealth Human Rights Initiative, 2023

<https://www.humanrightsinitiative.org/publication/digital-gender-gap-is-a-barrier-to-womens-full-participation-in-society>

¹⁹ UN. Human Rights Council, *The Promotion, Protection and Enjoyment of Human Rights on the Internet*, (47th sess.: 2021)

²⁰ Conventions on Elimination of All Forms of Discrimination Against Women, 1979

The 1995 Beijing Declaration and Platform for Action²¹ is a revolutionary initiative toward the empowerment of women.²² An important first step toward attending the Fourth United Nations World Conference on Women in Beijing in 1995²³ was the establishment of the Association for Progressive Communications Women's Networking Support Programme (APC WNSP) in 1993, which is at present known as the APC Women's Rights Programme (WRP).²⁴ The conference marked a significant shift in the global agenda for gender equality, and APC viewed it as a vital platform for strategic engagement and influence over the subsequent Platform for Action.²⁵ At the beginning of APC, it was evident that digital technologies would unavoidably affect women and persons of different genders and have the potential to exacerbate already-existing disparities. As a result, civil society would need to make a strong commitment to influencing the direction of the internet.²⁶

Thus, it is clarified and established that the instruments of International Laws, such as the UDHR, ICCPR, etc., have embraced the freedom to internet access through digital means, which guarantees the right to internet access to its member nations as a human right that cannot be prohibited based on territorial jurisdictions.

THE UNITED STATES JURISPRUDENCE

Access to the internet in the United States has seen uproar as there has an ongoing debate as to whether the right to internet access must be considered as a human right or not. The true point of contention is how the community decides what constitutes a right. Contrary to popular belief, rights are not inherent. Because the King of Britain did not think some rights were self-evident, Thomas Jefferson had to state that certain rights are fundamental and integral to

²¹ Beijing Declaration and Platform for Action, 1995

²² United Nations, *Beijing Declaration and Platform for Action*, (UN Women in 2014.), 1995 <https://www.icsspe.org/system/files/Beijing%20Declaration%20and%20Platform%20for%20Action.pdf>

²³ Zhang, L, Reflections on the Three Waves of Women's Studies in China and Globalization, (Asian Journal of Women's Studies), 2010 <https://doi.org/10.1080/12259276.2010.11666086>

²⁴ APC News, *APC Women's Networking Support Programme (APC WNSP) Celebrates a decade of empowering Women through Information and Communication*, (Association for Progressive Communication), updated on 2025. <https://www.apc.org/en/news/apc-womens-networking-support-programme-apc-wsnp-celebrates-decade-empowering-women-through>

²⁵ Maja Romano, *APC since Beijing 1995: Shaping a feminist internet*, (Association for Progressive Communication), updated on 2025. <https://www.apc.org/en/news/apc-beijing-1995-shaping-feminist-internet#:~:text=Marking%20the%2030th%20anniversary%20of,resilient%20global%20network%20of%20members.>

²⁶ Ibid

humans in the United States Declaration of Independence.²⁷ The right to freedom of expression and religion is shielded from governmental intrusion by the First Amendment of the US Constitution.²⁸ It forbids any legislation that establishes a national religion, restricts the freedom of speech, restricts the freedom of the press, interferes with the right to peaceful assembly, or forbids citizens from asking the government for redress of grievances.²⁹

It has been observed that the path that advocates and prescribes for the right to internet access as a human right has seen much criticism. Even though the Internet has shown to be extremely valuable, it is improper and unreasonable to suggest that anything beneficial ought to be acknowledged and recognised as a human right.³⁰ Hypothetically, if someone has a right to something, it should come from their morality rather than their usefulness, as something that is ethically significant always draws others' obligations to uphold it. Another point of contention is that the notion of Internet access as a human right is illogical, as all technology serves to facilitate rights rather than being a right in and of itself.³¹ It is further contended that human rights can only be applied to matters that are directly related to a person's meaningful and healthy quality of life.³² It was further argued that the worth of the prevailing human rights would be diminished as a result of opening the door for the attribution of the human rights status to concerns and obligations that do not rightfully justify the high level of responsibility of protection from violation.³³ In light of the above, some have contended that the duty to preserve Internet access should be absorbed by current human rights and only given protection in instances when those rights are actually abused online.³⁴ Thus, as claimed above, although Internet access can be utilized to advance and defend human rights, it cannot be granted the status of a human right.³⁵ Thus, the United States does not recognize the right to internet access.

²⁷ Tim Berners – Lee and Harry Halpin, *Internet Access is a Human Right*, (W3C/MIT and Web Foundation, Boston, Massachusetts, United States of America), <https://www.ibiblio.org/hhalpin/homepage/publications/def-timbl-halpin.pdf>

²⁸ The Constitution of United States, 1789, 1st Amendment.

²⁹ Ibid

³⁰ Dr. Rupak Kumar Joshi and Dr. Santosh Kumar, *INTERNET FREEDOM: A 21ST-CENTURY HUMAN RIGHT*, (NUJS Journal of Regulatory Studies), 2025 <https://journals.nujs.edu/index.php/njrs/article/view/410/432>

³¹ Merten Reglitz, *The Socio-Economic Argument for the Human Right to Internet Access*, *Politics, Philosophy & Economics*, 22(4), 441–469, 2023.

³² Cerf, V. G., *Internet Access Is Not a Human Right*. *The New York Times*, (2012, January 5). <https://www.nytimes.com/2012/01/05/opinion/internet-access-is-not-a-human-right.html>, <https://doi.org/10.1177/1470594x231167597>

³³ Ibid

³⁴ Ibid

³⁵ Hert, P. D., & Kloza, D., *Internet (access) as a new fundamental right. Inflating the current rights framework?*, *European Journal of Law and Technology*, 3(3), 2012. <https://ejlt.org/index.php/ejlt/article/view/123/268>

EUROPEAN CONVENTION OF HUMAN RIGHTS

"Everyone has³⁶ the right to freedom of expression," according to Article 10 of the European Convention on Human Rights (Council of Europe, 1952). This right will include the freedom to express one's thoughts as well as the ability to receive and share information and ideas across national boundaries and without interference from the government."³⁷ This right may be subject to formalities, conditions, limitations, or fines, but it must be consistent with the ECtHR's three-part test, according to Article 10. Accordingly, the contested measures must not be arbitrary: the interference must:

- (a) be appropriate to accomplish the legitimate goal sought (suitability or legitimacy);
- (b) be the least invasive tool (necessity); and
- (c) be strictly proportionate to the legitimate goal pursued (proportionality *sensu stricto*).³⁸

In this specific instance, the seminal cases of the ECtHR pertain to two nations: Russia and Turkey (Although the States employed various strategies, the fundamental problem in each of these cases is the restriction of Internet access).³⁹ Sometimes we find wholesale blocking (all or part of the Internet was prohibited), excessive blocking (the entire website was blocked because of a single page or file considered inappropriate), or collateral blocking (several websites, including the one targeted, shared the IP address that was blocked). The European Court of Human Rights (ECtHR) determined that most of the measures were in violation of Article 10 of the European Convention on Human Rights (ECHR)⁴⁰ because they mostly failed the necessity and/or proportionality aspect of the aforementioned test. It is confirmed that communication methods are under the purview of the freedom of expression outlined in Article

³⁶ The European Court of Human Rights, 1950, Article 10.

³⁷ The European Court of Human Rights, 1950, Article 10.

³⁸ Gergely Gosztonyi, *THE EUROPEAN COURT OF HUMAN RIGHTS: INTERNET ACCESS AS A MEANS OF RECEIVING AND IMPARTING INFORMATION AND IDEAS*, International Comparative Jurisprudence 6(2), 2020, available at: https://www.researchgate.net/publication/350786004_THE_EUROPEAN_COURT_OF_HUMAN_RIGHTS_IN_TERNET_ACCESS_AS_A_MEANS_OF_RECEIVING_AND_IMPARTING_INFORMATION_AND_IDEAS/link/6071a2ffa6fdcc5f77955bc1/download?tp=eyJjb250ZXh0Ijp7ImZpcnN0UGFnZSI6InB1YmxpY2F0aW9uIiwicGFnZSI6InB1YmxpY2F0aW9uIn19

³⁹ Ahmet Yildirim v. Turkey, (*Application no. 3111/10*), 2012); (Akdeniz v. Turkey, (20877/10), 2014); (Bulgakov v. Russia, 20159/15, 2020); (Cengiz and Others v. Turkey, (*Applications nos. 48226/10 and 14027/11*) 2015); (Elvira Dmitriyeva v. Russia, 2019); (Engels v. Russia, 2020); (Kablis v. Russia, 2019); (OOO Flavus and Others v. Russia, 2020); (Vladimir Kharitonov v. Russia, 2020).

⁴⁰ Voo hoof, D. RFE/RL Inc. And others v. Azerbaijan. (European Court of Human Rights), 2024

10 ECHR. The argument to make the Internet (or its use) a fundamental right is the next stage in this evolution. For example, the work of the Internet Rights and Principles alliance, which has introduced its 10 Internet Rights and Principles and is currently drafting a Charter of Human Rights and Principles for the Internet, can be cited in this regard. The Internet Rights & Principles Dynamic Coalition (IRPC) in 2008⁴¹, drafted the Charter of Human Rights and Principles for the Internet (the IRPC Charter) the quality of internet services is explicitly mentioned in Article 1⁴², which stipulates that information sharing should take place without discrimination. The "Right to Non-Discrimination in Internet Access, Use, and Governance"⁴³ is protected by Article 2 of the IRPC Charter.⁴⁴

According to the IRPC Charter, the following are included in the right to non-discrimination on the internet: (1) equality of access; (2) marginalized groups; and (3) gender equality.⁴⁵ According to this document, it is a violation of certain groups' human rights when they are systemically denied access to the internet.⁴⁶

THE UNITED KINGDOM AND JURISPRUDENCE

The freedom of speech and the freedom to receive thoughts, ideas, and information are known as freedom of expression, which is established in Article 10 of the ECHR as provided in the preceding paragraphs. Article 10 of the ECHR was incorporated into UK domestic law with the Human Rights Act of 1998.⁴⁷ Online communication and conduct may be impacted by UK criminal or civil legislation, which is applicable both online and offline. Under UK law, the right to freedom of expression is restricted, although there are several limitations. The Human Rights Act 1998 sets out the laws that govern the fundamental rights and freedoms to which the citizens of the UK are entitled.⁴⁸ The UK Civil and Criminal law regime, wherein online communication and conduct may be impacted, which is applicable both offline and online. The following are some of the limitations imposed by UK law on the right to freedom of expression:

⁴¹ The Internet Rights & Principles Dynamic Coalition, 2008

⁴² The Internet Rights & Principles Dynamic Coalition, 2008, Article 1.

⁴³ The Internet Rights & Principles Dynamic Coalition, 2008, Article 2.

⁴⁴ Internet Rts. & Principles Coal., *The Charter of Human Rights and Principles for the Internet (4th ed. 2014)* [hereinafter IRPC Charter], article 2, <https://perma.cc/V2HL-EVEK>.

⁴⁵ Ibid

⁴⁶ Ibid

⁴⁷ Russell Taylor and Sarah Tudor, *Freedom of expression online: Communications and Digital Committee Report*, (House of Lord Library), 2022 <https://lordslibrary.parliament.uk/freedom-of-expression-online-communications-and-digital-committee-report/#heading-1>

⁴⁸ The Human Rights Act, 1998, Preamble.

The Communications Act of 2003⁴⁹ and the Malicious Communications Act of 1988 makes threats and "indecent or grossly offensive" messages illegal. The Public Order Act of 1986⁵⁰ lists offenses for inciting hatred based on sexual discrimination, race, or religion. The Terrorism Act of 2006⁵¹ makes it illegal to publish and distribute content that can be interpreted as inciting terrorist attacks. Chapter 2 of the House of Lords Communications and Digital Committee report "Free for all?"⁵² has expanded information on rules that might be pertinent to freedom of expression, such as the right to free speech in the digital era.⁵³

Through the Online Safety Bill, the Boris Johnson government attempted to address the problem of online freedom of expression. This measure seeks to accomplish a number of ambitions, including protecting and advancing online freedom of speech, boosting user safety, strengthening law enforcement's capacity to combat illicit content, etc. Boris Johnson's administration also outlined its plans for controlling free speech online through several regulations, including "*Digital regulation: Driving growth and unlocking innovation*". The publication outlined the government's overarching vision by outlining three goals: fostering innovation and competition, maintaining online safety for the UK, and fostering a thriving, democratic society."

The government outlined its ideas for digital market reform in "A new pro-competition regime for digital markets: Consultation document."⁵⁴ It contained suggestions for the goals of the Digital Markets Unit (DMU) and how it ought to collaborate with other authorities. Additionally, it suggested granting the DMU formal authority to "support the rapid establishment" of the statutory competition framework for digital markets. The DMU was established in April 2021 within the Competition and Markets Authority in a non-statutory capacity. In addition to the above, the "Online media literacy strategy" in July 2021, the government's three-year plan to coordinate media literacy instruction and provide users with the necessary abilities to make safe decisions online is outlined in the strategy and action plan

⁴⁹ The Communications Act, 2003, Preamble.

⁵⁰ The Public Order Act, 1986, Preamble.

⁵¹ The Terrorism Act, 2006, Preamble

⁵² Russell Taylor and Sarah Tudor, *Freedom of expression online: Communications and Digital Committee Report*, (House of Lord Library), 2022 <https://lordslibrary.parliament.uk/freedom-of-expression-online-communications-and-digital-committee-report/#heading-1>

⁵³ Russell Taylor and Sarah Tudor, *Freedom of expression online: Communications and Digital Committee Report*, (House of Lord Library), 2022 <https://lordslibrary.parliament.uk/freedom-of-expression-online-communications-and-digital-committee-report/#heading-1>

⁵⁴ 'A new pro-competition regime for digital markets: Consultation document', published in July 2021

that goes along with it.⁵⁵

RIGHT TO ACCESS TO THE INTERNET AND INDIAN JURISPRUDENCE

In India, the market for internet users is still dominated by men, highlighting the digital gender gap, but it is narrowing. 58% of India's 622 million Active Internet Users (AIU) are men, while the remainder are women.⁵⁶

In both rural and urban India, the ratio of male to female AIU is essentially similar to one another, with minor dissimilarities. The ratio of male to female Internet users is approximately 57:43 in urban India and 58:42 in rural India.⁵⁷ India has the second-highest number of internet users worldwide, and that figure is rising daily. India's active Internet user base is predicted to grow by 45% over the next five years, reaching 900 million by 2025 from about 622 million in 2020.⁵⁸ In 2022, 57% of new internet users were female; by 2025, that number is predicted to reach 65%.⁵⁹

The Supreme Court established in *Maneka Gandhi v. Union of India*.⁶⁰ that the phrase "Personal Liberty" as it appears in Article 21 is rather expansive, wherein a number of these rights that constitute an individual's personal freedom are included herein, some of which have been granted the status of particular fundamental rights. As a result, this approach has led to the inclusion of numerous rights in Article 21 as fundamental rights.⁶¹ As a result, the Supreme Court occasionally interprets the additional rights as a component or portion of the fundamental rights in its rulings. The Indian Constitution's Articles 14 (Equality), 19 (Freedom), and 21 (Life & Liberty) form the cornerstone of individual liberties and are referred to as the "golden triangle" of fundamental rights because of their interconnection and wide interpretation, which shield citizens from capricious state action.⁶² Together, these three principles guarantee everyone in India the rule of law, liberty, and dignity.

⁵⁵ 'Online media literacy strategy', published in July 2021

⁵⁶KANTAR, *Internet Adoption in India*, (IAMAI, ICUBE), 2021
<https://www.iamai.in/sites/default/files/research/IAMAI-KANTAR-ICUBE-2020-Report.pdf>

⁵⁷ Ibid

⁵⁸Siddharth Singh, *Right to internet access as a basic human right in democracy*, (International Journal of Civil Law and Research), 2024 <https://www.civillawjournal.com/article/66/4-1-9-119.pdf>

⁵⁹KANTAR, *Internet Adoption in India*, (IAMAI, ICUBE), 2021
<https://www.iamai.in/sites/default/files/research/IAMAI-KANTAR-ICUBE-2020-Report.pdf>

⁶⁰ *Maneka Gandhi v. Union of India*, 1978 2 S.C.R. 621

⁶¹ Ibid

⁶² Ibid

According to a UNESCO study and survey, women have less access to the internet, with men making up 70% of users. According to the 2017 Information Technology Policy, educational institutions are essential for fostering a scientific mindset and making IT more accessible. In India, women's fundamental rights—such as the right to life and liberty, the right to education, and the right to freedom of expression—are restricted in every facet of society. According to the Supreme Court's decision in *Charu Khurana v. Union of India*⁶³, women continue to experience many forms of discrimination and prejudice, and the times when they were viewed as weak, frail, dependent, and subservient to males ought to be past. Furthermore, in *Sabu Mathew George v. Union of India*⁶⁴, in the case about prenatal gender determination, it was decided that women have equal constitutional status and identity. Further, it was decided that women have equal constitutional position and identity while taking into account the case about prenatal gender determination to claim that there can be no discrimination based on gender.⁶⁵

In *Faheema Shirin v. State of Kerala*⁶⁶, the Hon'ble Court relied upon the Supreme Court's ruling in *Vishaka & Ors. v. State of Rajasthan & Ors*⁶⁷ wherein, it was stated that due to the absence of any domestic regime in a country, the international conventions and norms are to be read into the fundamental rights guaranteed in the Constitution of India in light of Article 51(c) and 253 of the Constitution of India⁶⁸ and the role of judiciary envisioned in the Beijing Statement. According to the aforementioned principle established in the aforementioned ruling, the right to Internet access becomes a component of both the right to education and the right to privacy guaranteed and established under Article 21. It is argued that the limitations imposed do not fall under the reasonable restrictions allowed by Article 19(2) of the Indian Constitution, and that the ability to access the internet is one of the crucial aspects as enshrined under freedom of speech and expression, under Article 19(1)(a). Therefore, the limitations placed on the female hostel were unreasonable.

Based on the aforementioned precedents and principles, the court determined that the complete prohibition on female students' use of cell phones and the requirement that they turn them in during specific hours were completely unjustified. The regulations should be updated to reflect

⁶³ *Charu Khurana v. Union of India*, (2015) 1 SCC 192

⁶⁴ *Sabu Mathew George vs Union of India and Ors.*, (2018) 3 SCC 229

⁶⁵ *Ibid*

⁶⁶ *Faheema Shirin v. state of Kerala*, (2019) 4 KER LJ 634.

⁶⁷ *Vishaka & Ors. v. State of Rajasthan & Ors*, AIR 1997 SC 3011

⁶⁸ Yusuf Ali, *LAW AB INITIO: Internet: An inexpensive Right*, 2020 <https://www.lawabinitio.com/2020/08/internet-inexpensive-right.html>

modern technology and should not impede students' access to a wide range of learning tools. Rules and regulations that restrict students' access to the Internet are unacceptable in the eyes of the law, since the Human Rights Council of the United Nations has determined that this right is a fundamental freedom and a tool to safeguard the right to education.

Furthermore, in the recent decision of *Anuradha Bhasin v. Union of India*⁶⁹ The Apex Court noted that Article 19 (1) (a) of the Indian Constitution includes the right to internet access. Every Indian citizen was found to have "the right to be informed and the right to know and the feeling of protection of expansive connectivity."^{70, 71}

Citizens use the Internet to voice their opinions online, wherein people communicate their ideas through speech or writing, and they communicate their opinions from the lower to the higher levels of governance via the Internet. The Supreme Court defined the right to the Internet as a basic right and viewed it as a way to exercise the freedom of speech and expression contained in Article 19 (1) (a).⁷²

The Supreme Court proceeded on to assert that the internet is a plays a crucial role and is instrumental for business and trade as India has become a global center for IT due to the country's economic globalization and the quick advancements in information and technology.⁷³ Certain trades are unquestionably entirely reliant on the internet. Such an internet-based right to trade also promotes consumption and choice. Thus, subject to the limitations outlined in Article 19(6), the freedom of trade and commerce over the internet is also constitutionally protected by Article 19(1)(g).⁷⁴ Thus, as seen in the preceding case laws of the Indian Constitution, the right to internet access is considered a fundamental right.

CONCLUSION

Among the countries examined, India has one of the most progressive strategies, as the Indian courts have firmly established internet access as a basic right through expansive constitutional interpretation. Internet access constitutes a prerequisite for substantial advancement when read

⁶⁹ *Anuradha Bhasin v. Union of India*, AIR 2020 SC 1308.

⁷⁰ Rishika Kaushik, *Article 21 and The Right to Internet*, 2018, <https://www.legalbites.in/article-21-right-internet-rishika/>

⁷¹ Ibid

⁷² *Anuradha Bhasin v. Union of India*, AIR 2020 SC 1308.

⁷³ Ibid

⁷⁴ Ibid

in conjunction with the right to education, especially for women and other underrepresented groups who depend on digital platforms for civic engagement, work, and education. In *Anuradha Bhasin v. Union of India*⁷⁵ The Supreme Court of India recognized access to the internet as integral to the freedom of speech and expression under Article 19(1)(a) and the right to carry on trade or profession under Article 19(1)(g).

Further, following *Justice K.S. Puttaswamy v. Union of India*⁷⁶, digital access is increasingly viewed as essential to informational privacy and dignity under Article 21. When read alongside the right to education, internet access emerges as a necessary condition for substantive equality, particularly for women and marginalized groups who rely on digital spaces for education (*Mohini Jain v. State of Karnataka*⁷⁷; *Unnikrishnan v. State of Andhra Pradesh*⁷⁸), employment, and civic participation. The United States, on the other hand, maintains and adopts a more conservative constitutional posture. Although the First Amendment guarantees the right to free speech and expression, it does not require the government to grant internet access. *Packingham v. North Carolina*⁷⁹ and other court rulings recognize the internet, especially social media, as an essential platform for communication, but they do not recognize internet access as a basic or human right.⁸⁰

In conclusion, while India and the EU demonstrate judicial willingness to adapt existing rights to the digital age, the US and UK remain cautious, prioritizing negative liberties and regulatory safeguards over positive entitlements. For women, whose access to education, information, economic opportunity, and political voice is increasingly mediated through digital platforms, this divergence has profound implications. A rights-based recognition of internet access—whether explicit or interpretative—emerges as a critical prerequisite for achieving substantive gender equality in the digital era.

⁷⁵ *Anuradha Bhasin v. Union of India*, AIR 2020 SC 1308.

⁷⁶ AIR 2017 SC 4161

⁷⁷ 1992 SCC (3) 666

⁷⁸ 1993 SCR (1) 594

⁷⁹ *PACKINGHAM v. NORTH CAROLINA*, 368 N. C. 380, 777 S. E. 2d 738

⁸⁰ *Ibid*

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