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## **JUDICIAL TWITTER: FREE SPEECH AND ETHICAL BOUNDARIES OF JUDGES ONLINE**

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### **ABSTRACT**

The dawn of judicial presence on platforms such as Twitter/X broach a novel tension between the constitutional guarantee of free expression and the ethical imperatives of judicial office. While judges, as citizens, are entitled to the freedoms secured under Article 19(1)(a) of the Indian Constitution, their speech is necessarily constrained by the reasonable restrictions of Article 19(2), the constitutional demand of impartiality, and the normative weight of public confidence in the judiciary. This article interrogates the boundaries of judicial free speech in the digital age, situating the debate within the framework of the Restatement of Judicial Values (1997) and the Bangalore Principles of Judicial Conduct (2002), both of which remain silent on social media engagement. Drawing from comparative jurisprudence in the United States and the United Kingdom, where advisory opinions and disciplinary precedents illuminate the risks of online expression, the study identifies the dual possibilities of judicial Twitter: as a tool for transparency and legal literacy, and as a threat to impartiality, dignity, and the appearance of independence. Against this backdrop, the article argues for the formulation of a dedicated Judicial Social Media Code of Conduct in India, one that reconciles constitutional rights with institutional responsibility. By offering a structured policy model, it seeks to preserve the credibility of courts while enabling the judiciary to engage meaningfully with the public sphere in the digital era.

## INTRODUCTION

The increasing digitalization of public discourse has inevitably touched the judiciary, an institution historically insulated from immediate public engagement. Judges, once accessible only through their judicial pronouncements, are now occasionally visible on social media platforms such as Twitter (now X). This shift, though limited in India, has generated considerable debate on whether judicial officers should participate in spaces characterized by rapid information exchange, partisanship, and, at times, hostility. The issue lies at the intersection of constitutional guarantees, institutional legitimacy, and ethical self-restraint.

The judiciary occupies a unique constitutional position. Judges are not merely private citizens but custodians of justice whose authority derives from public trust. Their conduct, therefore, is expected to adhere to standards higher than those imposed upon the general populace. Yet, as citizens, judges are entitled to freedom of speech and expression under Article 19(1)(a) of the Constitution of India.<sup>1</sup> The apparent paradox emerges when judicial expression, particularly on public platforms, collides with the need for impartiality, restraint, and independence—qualities central to the legitimacy of judicial decision-making. The problem is compounded by the absence of any explicit framework in India governing judicial use of social media.

In recent years, the normative boundaries of judicial speech have been tested in unconventional ways. The infamous Justice C.S. Karnan episode demonstrated how unrestrained public expression could undermine institutional dignity, while also highlighting the lack of guiding principles tailored to the digital environment.<sup>2</sup> Social media, unlike traditional forums of speech, amplifies voice, collapses private and public boundaries, and ensures permanence of expression. A single tweet, even if trivial in intent, may invite perceptions of bias, compromise the appearance of neutrality, or implicate judges in political controversies.

This debate is not unique to India. In the United States, judicial conduct commissions and ethics advisory committees have issued opinions addressing the appropriateness of judges' online interactions, often disciplining those who crossed perceived lines of propriety.<sup>3</sup> The United Kingdom, by contrast, has adopted a more cautious approach, discouraging judges from engaging with social media altogether, in order to preserve impartiality and the appearance of

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<sup>1</sup> INDIA CONST. art. 19, cl. 1(a).

<sup>2</sup> In re Justice C.S. Karnan, (2017) 7 S.C.C. 1 (India).

<sup>3</sup> In re Terry, 51 N.E.3d 653 (Ohio 2016); see also Florida Judicial Ethics Advisory Committee, Opinion 2009-20 (Nov. 17, 2009).

independence.<sup>4</sup> These comparative experiences underscore the urgency of crafting context-specific standards for India, where the judiciary commands immense authority and where public discourse is increasingly mediated through digital platforms.

The present article seeks to examine the constitutional and ethical dimensions of judicial free speech in the digital era. It argues that while judges' speech is a constitutionally protected right, it is necessarily "qualified speech" whose contours are shaped by both constitutional morality and the imperatives of judicial propriety. Part II interrogates the constitutional foundations of judicial free expression, while Part III explores the ethical standards set by existing codes of conduct. Part IV draws from comparative practices in other jurisdictions to identify best practices and cautionary tales. Part V analyzes the dual nature of judicial Twitter as both an opportunity for transparency and a risk to impartiality. Finally, Part VI advances the case for a dedicated Judicial Social Media Code of Conduct in India, proposing a balanced framework that respects both the constitutional rights of judges and the institutional demands of judicial legitimacy.

## CONSTITUTIONAL DIMENSIONS OF JUDICIAL FREE SPEECH

The question of judicial free speech occupies a delicate space between constitutional rights and institutional obligations. Judges, as citizens, are entitled to freedom of expression; yet their speech is inherently qualified by the demands of impartiality, dignity, and public confidence in the judiciary. This section examines the doctrinal contours of judicial expression under Indian constitutional law, drawing insights from judicial pronouncements and comparative jurisprudence.

### i. Article 19(1)(a): Freedom of Speech and Expression

Article 19(1)(a) of the Constitution of India guarantees all citizens the right to freedom of speech and expression.<sup>5</sup> Judges, despite their elevated office, do not relinquish their identity as citizens and are, therefore, *prima facie* entitled to this protection. The Supreme Court has emphasized in multiple judgments that the right to free expression is fundamental to democracy,<sup>6</sup> encompassing not only traditional forms of speech but also emerging digital

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<sup>4</sup> Judicial Office, Guide to Judicial Conduct ¶ 2.7 (2016) (U.K.).

<sup>5</sup> INDIA CONST. art. 19, cl. 1(a).

<sup>6</sup> *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248 (India).

platforms.<sup>7</sup>

However, judicial expression is inherently distinct from ordinary citizen speech due to the institutional role of judges. While a judge may opine on general legal or social issues, any statement touching upon pending litigation, political matters, or controversial public debates risks creating a perception of bias. In *State of Uttar Pradesh v. Rajesh Gautam*, the Court acknowledged that the rights of an officeholder must be balanced against the responsibilities imposed by their position, especially where public confidence is implicated.<sup>8</sup>

## **ii. Article 19(2): Reasonable Restrictions and Judicial Speech**

Freedom of speech under Article 19(1)(a) is subject to “reasonable restrictions” enumerated in Article 19(2), including restrictions on contempt of court, defamation, public order, and morality.<sup>9</sup> Judicial speech on social media must navigate these limitations carefully. The Constitution demands that judges exercise restraint to avoid undermining the authority and impartiality of the judiciary.

The Supreme Court in *Shreya Singhal v. Union of India*<sup>10</sup> underscored that while digital expression is protected, it remains subject to the same principles of responsibility applicable offline. A judge’s tweet, even if framed as personal opinion, may inadvertently amount to contempt if it comments on ongoing proceedings.<sup>11</sup> Consequently, judicial speech is “qualified speech” whose ambit is narrower than that of ordinary citizens.

## **iii. Article 21 and Judicial Dignity**

Article 21 guarantees the right to life and personal liberty, which the Supreme Court has expansively interpreted to include facets of human dignity and constitutional morality.<sup>12</sup> The dignity of judicial office forms an intrinsic part of constitutional morality, requiring judges to maintain a public persona that reflects impartiality, restraint, and decorum.<sup>13</sup> Digital expressions that compromise these qualities, even unintentionally, can erode public trust and

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<sup>7</sup> *Shreya Singhal v. Union of India*, (2015) 5 S.C.C. 1 (India).

<sup>8</sup> *State of Uttar Pradesh v. Rajesh Gautam*, (2003) 6 S.C.C. 1 (India).

<sup>9</sup> INDIA CONST. art. 19, cl. 2.

<sup>10</sup> *Shreya Singhal*, (2015) 5 S.C.C. 1.

<sup>11</sup> *Id.* at ¶ 32.

<sup>12</sup> *K.S. Puttaswamy v. Union of India*, (2017) 10 S.C.C. 1 (India).

<sup>13</sup> *In re Justice C.S. Karnan*, (2017) 7 S.C.C. 1 (India).

challenge the legitimacy of judicial decisions.<sup>14</sup>

Thus, the constitutional protection of free expression must be reconciled with the imperatives of judicial dignity. A balance must be struck to allow judges to participate meaningfully in public discourse without jeopardizing the perception of independence.

#### iv. Comparative Perspectives

While the Indian Constitution provides a framework, other jurisdictions offer instructive examples regarding the balance between judicial freedom and institutional propriety.

**United States:** The Ohio Supreme Court disciplined a judge in *In re Terry*<sup>15</sup> for Facebook posts that created a reasonable perception of bias, demonstrating that judicial speech—even outside the courtroom—may be restricted to preserve impartiality. Advisory committees in multiple states have issued opinions cautioning judges about online conduct, reinforcing the principle that free expression is subject to institutional constraints.

**United Kingdom:** The *Guide to Judicial Conduct* explicitly discourages judges from engaging in social media to protect impartiality and the appearance of independence.<sup>16</sup> The guidance recognizes that even informal online activity can influence public perception and diminish trust in the judiciary.

These comparative insights suggest that while judges have constitutional rights, they are universally constrained by the higher demands of office. India, lacking a codified framework, must reconcile Articles 19 and 21 with emerging digital realities.

Judicial free speech in India is a constitutionally protected right that is inherently qualified by the demands of impartiality, dignity, and public confidence. Articles 19 and 21, read together, provide both protection and limitation: protection of expression as a fundamental right, and limitation to ensure institutional legitimacy. Comparative jurisprudence underscores that these constraints are neither unique nor excessively restrictive but reflect a universal concern to balance freedom with the integrity of judicial office. The analysis in this section establishes the

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<sup>14</sup> Id.

<sup>15</sup> *In re Terry*, 51 N.E.3d 653 (Ohio 2016).

<sup>16</sup> Judicial Office, *Guide to Judicial Conduct* ¶ 2.7 (2016) (U.K.).

doctrinal foundation for subsequent discussions on ethical standards, social media engagement, and policy recommendations.

## **JUDICIAL ETHICS AND ONLINE CONDUCT**

Judicial ethics function as the normative compass that regulates the conduct of judges, ensuring impartiality, integrity, and independence. While these principles were traditionally understood in the context of courtroom decorum and public life, the proliferation of digital communication has created a novel terrain where ethical boundaries must be re-examined. The challenge of judicial engagement on Twitter and similar platforms lies in reconciling long-standing ethical expectations with the immediacy, informality, and permanence of online expression.

### **i. The Normative Foundations of Judicial Ethics**

The Indian judiciary has historically adhered to self-regulation through conventions, rather than through codified statutes. The Restatement of Values of Judicial Life (1997), adopted by the Supreme Court, emphasizes that judges must avoid public controversies and refrain from actions that might compromise impartiality.<sup>17</sup> Similarly, the Bangalore Principles of Judicial Conduct (2002) underscore six core values: independence, impartiality, integrity, propriety, equality, and competence and diligence.<sup>18</sup> Although neither explicitly addresses social media, their emphasis on restraint and propriety applies with equal force in the digital domain.

Indian jurisprudence has repeatedly stressed that a judge is “not merely a citizen but an institution,” whose conduct must inspire confidence.<sup>19</sup> Thus, judicial speech, even outside the courtroom, is subject to higher standards of propriety than those applicable to ordinary citizens. The digital space, with its blurred boundaries between public and private discourse, tests the elasticity of these ethical norms.

### **ii. Ethical Challenges of Digital Platforms**

Social media introduces unique ethical dilemmas for judges. The instantaneous and informal nature of Twitter invites impulsive commentary that may be inconsistent with judicial restraint. Even seemingly innocuous statements can be amplified, archived, and scrutinized, raising

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<sup>17</sup> Restatement of Values of Judicial Life, (1997) 4 S.C.C. J. 3 (India).

<sup>18</sup> Bangalore Principles of Judicial Conduct, U.N. Doc. E/CN.4/2003/65 (2002).

<sup>19</sup> S.P. Gupta v. Union of India, (1981) Supp. S.C.C. 87, 212 (India).

questions of impartiality.<sup>20</sup>

A central ethical concern is the appearance of bias. In *In re Justice C.S. Karnan*, the Supreme Court underscored that judicial authority depends on maintaining public trust in impartial adjudication.<sup>21</sup> A judge's online remarks—whether on politics, social controversies, or pending matters—may create reasonable apprehensions of bias, undermining this trust.

Further, the principle of propriety requires judges to avoid associations that may compromise dignity. Online interactions, including “likes,” “shares,” or following partisan accounts, risk creating perceptions of ideological alignment.<sup>22</sup> Such digital affiliations, though informal, may be ethically problematic.

### iii. Disciplinary Precedents and Advisory Guidelines

While India lacks a codified social media code for judges, comparative jurisdictions provide instructive precedents. In the United States, state judicial conduct commissions have repeatedly disciplined judges for online activity. In *In re Terry*, the Ohio Supreme Court sanctioned a judge for partisan Facebook posts, holding that online speech is subject to the same ethical scrutiny as traditional public conduct.<sup>23</sup> Similarly, advisory opinions in states such as New York and California caution judges against “friending” lawyers or commenting on political issues online.<sup>24</sup>

In the United Kingdom, the Guide to Judicial Conduct (2016) explicitly warns judges to avoid using social media in ways that may damage impartiality or public confidence.<sup>25</sup> The guidance emphasizes that judges must assume that “everything online is public,” thereby mandating caution in digital interactions.

These comparative examples highlight the need for India to transition from reliance on broad ethical statements to specific guidelines tailored to the realities of online platforms.

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<sup>20</sup> Amanda P. Williams, *Judges, Social Media, and the Risk to Public Confidence*, 94 N.Y.U. L. Rev. 241, 245 (2019).

<sup>21</sup> *In re Justice C.S. Karnan*, (2017) 7 S.C.C. 1, 12 (India).

<sup>22</sup> Keith J. Bybee, *Judicial Propriety in the Digital Age*, 103 Geo. L.J. 1561, 1570 (2015).

<sup>23</sup> *In re Terry*, 51 N.E.3d 653, 657 (Ohio 2016).

<sup>24</sup> New York Advisory Comm. on Judicial Ethics, Op. 08-176 (2009); California Judges Ass'n, Judicial Ethics Comm., Op. 66 (2010).

<sup>25</sup> Judicial Office, *Guide to Judicial Conduct* ¶ 2.7 (2016) (U.K.).

#### **iv. Towards a Judicial Social Media Ethic in India**

The absence of a dedicated framework for judicial social media use in India creates a normative vacuum. While existing ethical principles can be extended to digital contexts, their lack of specificity renders them inadequate in practice. A judge's online conduct implicates not only personal expression but also the institutional legitimacy of the judiciary.

There is a compelling need to articulate a Judicial Social Media Ethic, built on three pillars: restraint in expression, transparency in online affiliations, and accountability through internal mechanisms of oversight. Such a framework would preserve judicial dignity while recognizing the inevitability of digital engagement. Without such a code, ethical expectations risk being inconsistently applied, thereby weakening both accountability and credibility.

Judicial ethics in the digital era demand a careful recalibration of traditional principles. The values of independence, impartiality, and propriety retain their salience but require reinterpretation to address the challenges posed by online platforms. Comparative experiences demonstrate that ethical boundaries, when left undefined, result in disciplinary controversies that erode public trust. For India, the path forward must involve moving from aspirational principles to explicit guidelines on online conduct, thereby securing both judicial freedom and institutional legitimacy.

### **COMPARATIVE PERSPECTIVES ON JUDICIAL TWITTER**

The debate surrounding judicial expression on social media is not unique to India. Jurisdictions across the globe have confronted the tension between free speech and judicial propriety in varying ways, with courts, ethics committees, and legislatures developing responses that illuminate both the promise and perils of digital engagement by judges. A comparative analysis demonstrates that while the constitutional and institutional contexts differ, there is a universal recognition that judicial speech online must be carefully regulated to preserve impartiality and public confidence.

#### **i. The United States: Broad Rights, Structured Constraints**

The United States Constitution, through the First Amendment, provides expansive protection

for free speech.<sup>26</sup> Judges, as citizens, are entitled to this protection, but the judicial code of conduct imposes significant restrictions to safeguard impartiality. The Code of Conduct for United States Judges prohibits judges from engaging in political activity, endorsing candidates, or making statements that could cast doubt on their neutrality.<sup>27</sup>

Judicial disciplinary bodies have enforced these principles in the digital realm. In *In re Terry*, the Ohio Supreme Court sanctioned a judge for partisan social media activity, holding that online speech is subject to the same ethical standards as traditional expression.<sup>28</sup> Similarly, in *In re Slaughter*, the Louisiana Supreme Court reprimanded a judge for public online comments criticizing prosecutors, finding that such expression undermined judicial impartiality.<sup>29</sup> Advisory opinions from state judicial ethics committees caution judges that “friending” lawyers or parties may create an appearance of impropriety.<sup>30</sup>

Thus, the American experience demonstrates a balancing act: judges enjoy constitutional speech rights but remain constrained by strict ethical codes, with disciplinary sanctions ensuring accountability in the digital sphere.

## **ii. The United Kingdom: Institutional Restraint and Caution**

Unlike the United States, the United Kingdom follows a tradition of judicial restraint rooted in constitutional conventions. The Guide to Judicial Conduct (2016) explicitly addresses social media, cautioning judges that even seemingly trivial online interactions may damage public confidence.<sup>31</sup> The guidance emphasizes that “everything online is public,” urging judges to avoid comments that may suggest political partisanship or prejudgment of issues.

The British approach prioritizes institutional dignity over individual speech rights. Unlike in the United States, where judicial expression is framed through the lens of constitutional liberty, the U.K. framework emphasizes the preservation of judicial independence and public trust as overriding concerns. This results in a more cautious stance, discouraging active participation on platforms like Twitter.

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<sup>26</sup> U.S. CONST. amend. I.

<sup>27</sup> Code of Conduct for United States Judges, Canon 5(A)(2) (U.S. Jud. Conf. 2019).

<sup>28</sup> *In re Terry*, 51 N.E.3d 653, 657 (Ohio 2016).

<sup>29</sup> *In re Slaughter*, 480 S.W.3d 842, 847 (La. 2015).

<sup>30</sup> N.Y. Advisory Comm. on Judicial Ethics, Op. 08-176 (2009); Cal. Judges Ass’n, Judicial Ethics Comm., Op. 66 (2010).

<sup>31</sup> Judicial Office, *Guide to Judicial Conduct* ¶ 2.7 (2016) (U.K.).

### iii. Canada and Australia: Middle Path Approaches

Canada and Australia provide instructive middle-ground approaches. The Canadian Judicial Council's Ethical Principles for Judges (2021) acknowledges that judges may use social media for educational and outreach purposes but cautions against political or controversial commentary.<sup>32</sup> The guidance stresses the importance of context, warning that "likes" or "retweets" may be perceived as endorsements.

In Australia, judicial conduct guidelines similarly recognize the value of digital engagement for transparency and accessibility, particularly in communicating legal reforms and court processes.<sup>33</sup> However, they emphasize restraint, recommending that judges exercise constant vigilance to avoid any perception of bias.

Both jurisdictions adopt a contextual approach, neither prohibiting judicial social media use outright nor allowing unfettered expression. Instead, they encourage limited, responsible engagement.

### iv. Lessons for India

The comparative experiences reveal three models: the American model of broad speech rights curtailed by disciplinary enforcement, the British model of institutional restraint discouraging engagement, and the Canadian-Australian model of conditional participation with contextual safeguards.

For India, where judicial codes are still primarily aspirational, these examples suggest the necessity of moving towards a codified Judicial Social Media Code. A contextual approach, akin to Canada and Australia, may be best suited, allowing judges to participate in digital discourse for educational purposes while prohibiting partisan, prejudicial, or controversial engagement. This would balance constitutional freedoms with ethical obligations, reinforcing both transparency and institutional credibility.

Comparative perspectives underscore that judicial use of social media is a global phenomenon, invariably accompanied by risks to impartiality and trust. While the United States leans towards enforcement, the United Kingdom towards caution, and Canada and Australia towards

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<sup>32</sup> Canadian Judicial Council, *Ethical Principles for Judges* 94–95 (2021).

<sup>33</sup> Australasian Inst. of Jud. Admin., *Guide to Judicial Conduct* 115–16 (3d ed. 2017).

conditional participation, all converge on the principle that judicial dignity and independence must remain paramount. For India, where a structured framework is absent, adopting a hybrid model that integrates these lessons is both urgent and necessary.

## **RISKS AND OPPORTUNITIES OF JUDICIAL TWITTER**

Judicial engagement with social media, particularly Twitter, presents a paradox. On the one hand, it enhances transparency, accessibility, and public understanding of law. On the other, it risks compromising impartiality, dignity, and institutional legitimacy. The Indian judiciary, historically revered as an institution of restraint, faces unprecedented challenges in navigating these digital realities. This section evaluates both the risks and opportunities inherent in judicial Twitter.

### **i. Opportunities: Transparency, Accessibility, and Legal Literacy**

Judicial presence on social media can advance democratic values. The principle of open justice, recognized as part of Article 21 of the Indian Constitution,<sup>34</sup> mandates that judicial functioning be accessible and comprehensible to the public. Social media platforms offer a medium through which judges can demystify legal processes and foster greater awareness of constitutional rights.

In jurisdictions such as Canada and Australia, judicial outreach online has been used to promote legal literacy, particularly among younger generations who consume information digitally.<sup>35</sup> Indian judges, by cautiously engaging online, could contribute to public debates on rule of law, constitutionalism, and access to justice without necessarily commenting on pending or political issues.

Moreover, Twitter enables real-time dissemination of information about judicial initiatives, seminars, or legal education projects, thereby enhancing the judiciary's visibility as a constitutional guardian. In an era of declining trust in institutions, constructive engagement may strengthen public confidence.

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<sup>34</sup> Naresh Shridhar Mirajkar v. State of Maharashtra, A.I.R. 1967 S.C. 1, 7 (India).

<sup>35</sup> Canadian Judicial Council, *Ethical Principles for Judges* 94–95 (2021).

## ii. Risks: Impartiality, Populism, and Contempt

The gravest risk of judicial Twitter lies in the erosion of impartiality. The Supreme Court has repeatedly emphasized that justice must not only be done but must also be seen to be done.<sup>36</sup> A judge's tweet—whether a remark on politics, social controversies, or sensitive litigation—may create a reasonable apprehension of bias, sufficient to undermine public trust in adjudication.

Another danger is digital populism. Social media thrives on brevity, virality, and emotional appeal. Judicial interventions in this space risk aligning judges with populist narratives, reducing complex legal issues to soundbites.<sup>37</sup> Such conduct contradicts the ideal of judicial detachment, replacing reasoned analysis with performative expression.

Further, injudicious online commentary may attract proceedings for contempt of court under the Contempt of Courts Act, 1971, particularly if comments appear to prejudge pending cases or scandalize the authority of the court.<sup>38</sup> Unlike ordinary citizens, judges wield institutional authority, and thus their online expressions carry amplified consequences.

## iii. Institutional Risks: Fragmentation of Authority

Beyond individual judges, judicial Twitter raises concerns of institutional coherence. If judges begin issuing opinions, clarifications, or criticisms on digital platforms, it may create fragmented judicial voices competing with official court pronouncements.<sup>39</sup> Such multiplicity undermines the authority of judicial decisions, blurring the line between formal adjudication and personal commentary.

This also raises separation of powers concerns, as informal commentary by judges may intrude into domains reserved for the legislature or executive, thereby politicizing the judiciary's image.<sup>40</sup> In a polity where courts often arbitrate politically sensitive disputes, such risks are particularly acute.

## iv. The Delicate Balance: Weighing Risks Against Opportunities

The challenge, therefore, is not whether judges should be present on Twitter but how they

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<sup>36</sup> *Ranjit Thakur v. Union of India*, (1987) 4 S.C.C. 611, 620 (India).

<sup>37</sup> Richard A. Posner, *Judges' Writing Styles (and Do They Matter?)*, 62 U. Chi. L. Rev. 1421, 1434–35 (1995).

<sup>38</sup> Contempt of Courts Act, No. 70 of 1971, INDIA CODE (1971).

<sup>39</sup> Keith J. Bybee, *Judicial Propriety in the Digital Age*, 103 Geo. L.J. 1561, 1575 (2015).

<sup>40</sup> *S.P. Gupta v. Union of India*, (1981) Supp. S.C.C. 87, 212 (India).

should engage. Opportunities for transparency and education cannot be ignored, particularly in a digital society. Yet the risks of bias, populism, and institutional erosion demand equally strong safeguards.

A calibrated approach—permitting limited, educational, and non-partisan engagement, subject to codified guidelines—appears to be the most viable path for India. Such an approach would allow judges to embrace the democratizing potential of digital platforms while safeguarding judicial impartiality and institutional dignity.

Judicial Twitter embodies both promise and peril. It has the potential to humanize the judiciary, enhance public understanding of law, and reinforce the values of open justice. Yet, without restraint, it risks eroding impartiality, inviting contempt, and undermining institutional authority. For India, the way forward lies in a structured framework that recognizes both the transformative opportunities and the existential risks of digital judicial speech.

## **TOWARDS A JUDICIAL SOCIAL MEDIA CODE OF CONDUCT**

The rise of social media has blurred the lines between the personal and the professional, and nowhere is this more problematic than in the judiciary. Twitter, with its immediacy, informality, and potential for virality, places judges in a precarious position: while it can foster transparency and engagement, it can just as easily compromise judicial integrity and public confidence. This duality necessitates the formulation of a clear, contextually tailored code of conduct for judicial engagement on social media platforms. Such a framework must simultaneously respect the judge's freedom of expression as a citizen and safeguard the institutional values that sustain the authority of the courts.

### **i. The Rationale for a Code**

Judges hold offices that are qualitatively distinct from those of other public officials. Their authority is derived not from electoral legitimacy but from the trust reposed by citizens in their impartiality and wisdom. As Justice Cardozo once remarked, “*the great tides and currents which engulf the rest of men do not turn aside in their course and pass the judges by.*”<sup>41</sup> Judicial officers are not immune from social pressures, and the digital public sphere only magnifies

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<sup>41</sup> Benjamin N. Cardozo, *The Nature of the Judicial Process* 168 (Yale Univ. Press 1921).

these pressures.

In this context, a judicial social media code of conduct serves a preventive and protective function. Preventively, it discourages conduct that could be perceived as partial or intemperate; protectively, it shields judges from reputational harm and misinterpretation that often arises from the brevity and immediacy of platforms like Twitter. The Bangalore Principles of Judicial Conduct (2002), emphasizing independence, impartiality, propriety, and integrity, though drafted in a pre-digital age, resonate strongly with the challenges posed by online engagement.<sup>42</sup> Translating these values into practical norms for social media is the logical next step.

## ii. International Models and Inspirations

Comparative perspectives highlight how different jurisdictions have grappled with the digital dilemma. The Code of Conduct for United States Judges, for instance, strictly warns judges against political activity and “inappropriate public commentary” that could call into question their impartiality.<sup>43</sup> Similarly, the Judicial Council of England and Wales has underscored the dangers of “friending” lawyers or litigants, online commentary on pending cases, and posts that could undermine confidence in judicial neutrality.<sup>44</sup>

In Australia, the *Guide to Judicial Conduct* advises judges to exercise “extreme caution” in their digital engagements, emphasizing that even passive acts such as “liking” or “sharing” may constitute implied endorsement.<sup>45</sup> Canada too has acknowledged the risks of judges’ online presence, with the Canadian Judicial Council warning against “posts that could reasonably give rise to perceptions of bias.”<sup>46</sup>

These comparative frameworks reflect a common thread: judicial presence online is not forbidden but must be tempered by restraint, mindfulness, and avoidance of political entanglement. India can draw upon these models but must also tailor its code to its socio-political realities, where social media debates often polarize sharply along ideological lines.

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<sup>42</sup> Bangalore Principles of Judicial Conduct, U.N. Doc. E/CN.4/2003/65 (2002).

<sup>43</sup> Code of Conduct for United States Judges, Canon 5, Judicial Conference of the United States (2019).

<sup>44</sup> Judicial Conduct Guidelines, Judicial Council of England and Wales (2018).

<sup>45</sup> Australasian Institute of Judicial Administration, *Guide to Judicial Conduct* 92–94 (3d ed. 2017).

<sup>46</sup> Canadian Judicial Council, *Ethical Principles for Judges* 46–47 (2019).

### iii. Core Elements of a Proposed Indian Framework

For India, a judicial social media code must incorporate three foundational pillars:

**First, *restrictions on political expression***- Judges must refrain from endorsing, criticizing, or commenting upon political parties, candidates, or policy debates. Even indirect commentary—such as retweeting politically charged content—can erode perceptions of impartiality.

**Second, *boundaries on interactions with litigants, lawyers, and journalists***- The code should prohibit public exchanges with individuals who are, or could be, connected to current or prospective litigation. Such interactions, even if innocuous, risk creating perceptions of undue influence or familiarity.

**Third, *limitations on commentary about cases and legal issues***- Judges must abstain from discussing pending matters, offering speculative legal opinions on ongoing controversies, or commenting on judgments of peers in a manner that undermines collegiality. A carefully crafted exception could allow them to engage in general academic discussions, provided such commentary is measured and depersonalized.

These provisions, if codified, would operationalize constitutional values and harmonize judicial independence with accountability in the digital era.

### iv. Challenges in Framing and Enforcement

Drafting such a code is easier than enforcing it. The Indian Constitution protects judicial independence by insulating judges from external disciplinary mechanisms, particularly under Articles 121 and 124(4).<sup>47</sup> Any attempt by the executive to police judicial social media use could itself raise concerns of undue interference.

Hence, the solution may lie in self-regulation through judicial councils or ethics committees. Such bodies, composed of senior judges, could issue advisory opinions, warnings, or confidential guidance when questionable social media conduct arises. This soft approach would encourage compliance without threatening judicial autonomy. Yet, self-regulation has its own

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<sup>47</sup> INDIA CONST. arts. 121, 124(4).

limitations, as collegial reluctance to admonish peers may dilute accountability. Thus, a delicate balance between independence and transparency must be struck.

## **v. The Way Forward**

A judicial social media code of conduct should not be misconstrued as censorship. Instead, it is an affirmation of judicial dignity and institutional legitimacy. By providing judges with clear guidance, it minimizes the risk of inadvertent misconduct while enabling them to harness the benefits of digital communication responsibly.

Codifying such a framework would also serve an educative purpose, signaling to the public that the judiciary recognizes the transformative impact of technology and is committed to maintaining its own ethical standards in step with it. It would further preempt reputational crises, such as controversies surrounding off-the-cuff judicial remarks on Twitter, which have in the past sparked public debate about propriety and impartiality.

In the long run, the adoption of such a code could be integrated into broader judicial training programs, sensitizing judges to digital literacy, cybersecurity, and reputational management. Far from restricting judicial voices, this would empower them to engage meaningfully while preserving the dignity of their office.

## **CONCLUSION**

The phenomenon of judicial engagement on Twitter is not a passing curiosity but a defining feature of adjudication in the digital era. It raises profound constitutional and ethical questions, forcing a reconciliation between the judge as a citizen with rights and the judge as an institution bound by duties. As this article has argued, judicial speech on Twitter cannot be viewed in isolation from the larger values of impartiality, independence, and public confidence that sustain the legitimacy of courts.

Comparative experiences reveal that unregulated judicial participation in the digital sphere risks politicizing the judiciary, eroding dignity, and diminishing the perception of neutrality. Yet, these same experiences also demonstrate that social media, if carefully navigated, can enhance transparency, legal literacy, and accessibility. The challenge is not whether judges should be online, but how they can be online without undermining the sanctity of their office.

India stands at a critical juncture. While constitutional guarantees protect judges' freedom of expression, the absence of clear ethical guardrails has produced uncertainty and occasional controversy. A Judicial Social Media Code of Conduct, sensitive to Indian constitutional values and institutional realities, offers a constructive path forward. Such a framework would neither silence judicial voices nor reduce them to passive spectators; instead, it would provide clarity, consistency, and credibility to judicial engagement in the public digital sphere.

Ultimately, the judiciary must recognize that its authority is sustained not only by its decisions but also by its appearance of integrity. In the age of Twitter, this appearance is shaped as much by silence as by speech. A principled, codified approach to judicial online conduct can ensure that in embracing new modes of communication, judges do not lose sight of the oldest truth of adjudication: that justice must not only be done, but must manifestly be seen to be done.