Civil Society as an overseer in Digital Governance

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ABSTRACT:

Digital technology is increasingly transforming governance, reconfiguring how the state delivers services, governs society and engages with citizens. The rise of the digital public infrastructure and platform-based governance in India has maximised efficiency, access, but also raised concerns around surveillance, accountability, privacy and exclusion. As such, policy making becomes more and more based on data-driven and automatic setup. Democratic oversight is under increasing strain. This article investigates the oversight role of civil society in India's digital policy architecture. It considers how civil society organisations, the media and civilian networked practices mediating through litigation, policy advocacy, research and public participation in order to understand digital power. The paper assesses the impact of these interventions on rights protection, transparency and policy making, as it diagnoses institutional, political and resource obstacles that dull their effectiveness. It argues that the requirement of accountability in e-governance is not only technical regulation but constant ongoing independent and participatory rule of civil society based on democracy and social justice.

KEYWORDS:

Digital Governance, Civil Society, Accountability, Privacy, Policy Making, Transparency, Democratic Oversight.

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Introduction

India's recent digital revolution has changed the dynamics of India's relationship with its citizens. Digital public platforms such as Aadhaar, UPI, and DigiLocker have helped the government scale up its operations to unprecedented levels. However, the recent digital revolution has generated a multitude of complex issues, which have created a gap in the notion of trust among citizens towards digital platforms. In this respect, civil society organizations (CSOs), non-governmental organizations (NGOs), advocacy bodies, and the media play a vital role as an overseer

to ensure the transparent, accountable, and rights–based digital India.

This report gives an in–depth look at the diverse role of civil society in India's digital governance. It reviews the laws and policies that govern digital rights, profiles key players and their actions, examines important case studies, including advocacy on data protection, internet shutdowns, and surveillance technologies, and evaluates the challenges civil society faces in this area. The report also looks at the tools and strategies CSOs use, the effects of their work, and suggests ways to strengthen their oversight role in the changing digital environment.

Objectives of the Study

- The study intends to investigate the contribution of civil society to the existing frameworks for digital governance in India.

- Evaluate how the laws and policies governing digital rights in India.

- Evaluate methods of civil society advocacy to promote 'transparency' and 'accountability', including examining the role of civil society organizations.

- Evaluate the effectiveness of civil society's interventions utilizing a case study methodology.

- Understand the barriers that civil society faces in order to fully participate in the digital governance movement.

- Develop recommendations for strengthening civil society's involvement in order to improve digital governance in India.

Research Methodology

A qualitative and descriptive research methodology has been adopted for this research study, primarily using secondary sources of information to conduct an analysis of the role of civil society in the context of digital governance in India. The research consists primarily of a comprehensive literature review including Government statutes, reports prepared by civil society organizations, credible media organizations and academic journals/books. Examination of Case Law, Advocacy Campaigns and case studies analysis of landmark judicial opinions and campaigns undertaken by civil society organizations to explore their role in influencing public policy and creating responsible governance.

Understanding the Key Terms

Civil Society: Organizations and groups outside the government

and private sector that represent the interest of the citizens. It includes NGOs, think tanks, advocacy groups, professional associations, media, and online communities.

Digital Governance: The application of digital technologies, policies, and systems for the management of government services, data, and decision–making. Key components include:

- E–governance platforms
- Data Collection and Analysis
- Artificial intelligence and automated decision–making
- Digital Infrastructure and Cybersecurity

Encompasses a wide variety of issues related to e–governance, data privacy, AI regulation, online transparency, cybersecurity, and digital inclusion.

Oversight Role: As a monitor or guardian, providing a check on transparency, accountability, and ethical behaviour. Civil society monitors the activities of the government, disclosing any mismanagement, corruption, or misuse of technology.

The Importance of Civil Society in Digital Governance.

1. Transparency

Civil society has a role in monitoring digital tools used by the government, including collecting and using data, the use of artificial intelligence (AI) algorithms and the implementation of surveillance tools and systems. Example: NGOs audit the use of AI algorithms by government for bias or fairness, etc.

2. Accountability

CSOs provide a mechanism to hold government and authorities accountable for the misuse of technology. Example: privacy violations or identifying illegal data harvesting.

3. Protection of Rights

Civil Society supports for the privacy, protection of rights, freedom of expression and the right to access information. Example: Organising and campaigning against excessive online surveillance.

4. Inclusive Policy–Making

Civil society ensures that those who are excluded, such as people

with disabilities, have a voice in the progress of digital governance policies and frameworks. Example: encouraging to access electronic governance systems for persons with disabilities.

Key roles of Civil society organizations (CSOs) and mechanisms of Oversight in India

· **Advocacy and engagement with policymakers:**

CSOs are involved in policy consultations; drafting model legislation; and engaging with government actors to shape the legal framework for digital rights. In response to concerns expressed by civil society, the Draft Digital Personal Data Protection Act 2023 was widely criticized for not containing sufficient safeguards and failing to follow proper procedures for public consultation. It also advocates for similar legislation to GDPR (General Data Protection Regulation).

· **Strategic litigation:**

By using public interest litigation (PIL) and other legal mechanisms, CSOs are able to challenge unconstitutional laws and arbitrary actions by the State and to seek legal remedies for violations of rights. For example, filing lawsuits against the government for unauthorized surveillance.

In Kunal Kamra v. Union of India (2024), various civil society organizations filed a Public Interest Litigation (PIL) against new IT Rules that would create a factual verification unit that would have government powers of censorship. The Bombay High Court ruled that these amendments violate the right to free speech.

· **Research:**

CSOs conduct the research, publish policy documents, and run the digital literacy campaigns to educate citizens on their rights and the potential risks they face while using digital technologies. For example, analysing the fairness of predictive policing algorithms, analysis through independent Audits, Reports, and Policy Studies. In the case of Shreya Singhal v. Union of India (2015), civil society associations and individuals collectively challenged the constitutionality of Section 66A of the IT Act. The Supreme Court struck down Section 66A as unconstitutional and affirmed the right to free speech on the Internet.

· **Conducting Public Awareness:**

CSOs work to educate citizens about their digital rights and the

responsible use of technology. For example, campaigns to raise awareness on how to protect their data. The Save The Internet campaign, which has prominent leaders, such as Nikhil Pahwa, successfully opposed Facebook's Free Basics initiative in India. Civil society's efforts to protect the principles of net neutrality impacted telecommunications policy.

• **Coalition building:**

At national and international level, CSOs participate in multi-stakeholder dialogues and build coalitions and networks to enhance their activities, share skill sets.

• **Monitoring and accountability:**

CSOs oversee and reveal the activities of the government and the private sector, as well as encourage transparency, making them crucial checks on authority in the digital era. They employ digital tools to oversee governmental use of data or digital services.

In 2023–24, the Internet Freedom Foundation (IFF) filed numerous RTI requests to various government agencies to find out more information about censorship and surveillance systems and the Digital Travel Platform (DigiYatra). For example, providing tools to track government spending and how AI is used to make decisions.

The Functions of Civil Society as an overseer in India

India has seen a number of major data privacy controversies, including allegations of massive data breaches involving the alleged leaking of Aadhaar data -- which affect more than 1.1 billion citizens -- and allegations surrounding state surveillance with regard to the use of Pegasus spyware to target and monitor journalists and activists.

Organization	Focus Areas	Notable Initiatives and Impact
Internet Freedom Foundation (IFF)	Digital rights, privacy, surveillance, free speech	Strategic litigation (Aadhaar, Pegasus, internet shutdowns), Project Panoptic (FRT tracking), #SaveOurPrivacy campaign, legal assistance to journalists

Software Freedom Law Center (SFLC.in)	Internet shutdowns, intermediary liability, open source	Internet Shutdowns Tracker, legal advocacy, policy research
Centre for Internet and Society (CIS)	Policy analysis, research, accessibility, privacy	Policy briefs, consultations, digital inclusion research
Digital Empowerment Foundation (DEF)	Digital literacy, rural connectivity, inclusion	Grassroots digital literacy campaigns, community networks
Association for Progressive Communications (APC)	Global digital rights, internet governance	Multistakeholder engagement, capacity building
Feminist Approach to Technology (FAT)	Gender and digital divide, online safety	Grassroots campaigns, digital literacy for women and girls
Foundation for Media Professionals (FMP)	Internet access, Press freedom, litigation	PILs on internet shutdowns, advocacy for media rights
Independent Media (The Wire, Scroll, Alt News, etc.)	Investigative journalism, digital rights, fact–checking	Exposés on surveillance, censorship and disinformation

Major Civil Society Organisations for Transparency and Accountability:

The Indian civil society has built up an active ecosystem of organizations that leverage technology as a means of promoting greater transparency and accountability. There are various organizations within civil society that mainly focus on transparency and accountability. Among these, some notable organizations include:

1. Association for Democratic Reforms (ADR) – the ADR has developed the MyNeta.info platform to provide open data on candidates' criminal, financial and educational backgrounds. It is one of the pioneer organisations in promoting electoral transparency.

2. PRS Legislative Research – PRS works to promote legislative transparency through providing data driven analysis of parliamentary proceedings, an overview of legislative bills and the performance of Members of Parliament (MPs).

3. Mazdoor Kisan Shakti Sangathan (MKSS) – It is a grassroots level organization that initiated the RTI campaign and institutionalized

social auditing of rural employment schemes.

4. Satark Nagrik Sangathan (SNS) – it creates awareness about the RTI Act and monitoring the provision of municipal services and also focuses on transparency in local governance.

5. Digital Empowerment Foundation (DEF) – this institution works to establish community–based information resource centers, particularly in rural and marginalized communities to promote digital literacy, access to technology.

6. Humanitarian Aid International (HAI) – it has developed the DATA dashboard to promote transparency and accountability in humanitarian aid funding.

7. Earth5R – approaches the public to use real–time data to clean rivers; this shows how technology can be combined with grassroots efforts to promote environmental transparency.

8. ATMA Foundation – The ATMA Foundation serves as an example of how a small, non–profit organization can utilize digital tools for management, reporting and engaging with beneficiaries.

These different types of organizations demonstrate the variety of methods used in India's civil society–driven transparency movement. The range includes everything from open data platforms, mobile apps, social audits, and digital literacy campaigns.

Challenges Faced by Civil Society in Evolving Regulations and Evolving Space:

Civil society's role as an "Overseer" to monitor digital governance has been hindered by:

Legal and regulatory hindrance: Regulation through FCRA (Foreign Contribution Regulation Act) amendments (as well as changing IT Rules) and surveillance laws. Such prohibitions hinder the ability of civil society to raise funds, operate efficiently, or advocate for human rights.

Threats to freedoms of expression: Threats to freedoms of expression challenges the capacity of civil society to express dissent; harassment through the legal means i.e., arrests and preventive detention and errors that arise through censoring have a chilling effect on dissenting views and oversight functions.

Inaccessibility and lack of resources: Inaccessibility and lack of resources to digital literacy, technology and general capabilities to access technology are two major barriers facing many grassroots organisations and marginalised communities in India.

Violations of civil society's privacy through surveillance: Violations of privacy through surveillance, the absence of any oversight or protections from surveillance creates an environment in which civil society organisations and their representatives (i.e. Activists) are continually subject to cyberattacks or targeted surveillance.

A fragmented and resource constrained environment: A fragmented and resource constrained environment arises due to short–term funding periods, a lack of coordination between organisations, and capacity issues for many organisations, resulting in civil society initiatives failing to achieve meaningful impact or long–term sustainability.

Threats to Digital Rights: Disinformation, Deepfakes, and Platform Governance:

The digital ecosystem is mostly threatened by:

Disinformation and misinformation: It is used as weapons to create communal division, affect election outcomes, false information to mislead society and inhibit dissent, while being boosted through the use of algorithms and the lack of accountability from the various platforms that publish such material.

AI and deepfake manipulation: Manipulation of videos, images and sound providing additional concerns regarding synthetic media and content moderation via automated methods with no regulation in place to oversee these practices.

Platform Governance by the major tech companies: Major tech companies have concentrated power in themselves and provided a lack of transparency in conducting their businesses via algorithms, as well as utilizing inadequate systems to address grievances. Thus, civil society advocates for greater transparency and rights–oriented platform governance, establishment of content moderation standards, and increasing investments in education on media literacy and digital health.

These indicators show evidence of outcomes resulting in changes directly through the courts (e.g., order to cease) and through policies (e.g.,

ban), as well as evidence of public awareness and inclusion, and also accountability.

Recommendations and Best Practices for Strengthening CSO overseer Role

The above analysis serves as a basis for the recommendations below to improve the capacity and resilience of civil society organisations (CSOs) as an overseer of digital governance in India.

Improve Legal Protection and Oversight of Civil Society: Amend the Data Protection and Digital Privacy Act and surveillance legislation to provide for strict judicial oversight; Minimize exceptions permitted for state surveillance; Create and enforce user rights. Establish independent and empowered authorities for enforcing data protection and digital rights.

Promote Freedom of Expression and Civic Space: Repeal or amend the criminal laws that prohibit objection and arbitrary censorship; and protect the independence and funding of civil society organisations, particularly those engaged in rights–based advocacy.

Increase Digital Literacy and Build Capability: CSOs must encourage to invest in digital literacy, infrastructure, and inclusion for socially, economically marginalized and rural communities. Also supports the grassroots organisations to participate in digital rights advocacy to strengthen their capacity.

Support Multistakeholder and International Collaboration: National and international levels CSOs should encourage inclusive participation in internet governance. They should build networks and coalitions for increased impact, coordination of advocacy, and sharing of best practices.

Platform governance to create transparency and accountability: CSOs must advocate an effective system that creates transparent content moderation, algorithmic accountability to resolve grievances. It involves with platforms, their regulators and international groups to ensure they adhere to international human rights standards.

Research, monitoring and raising public awareness: CSOs should create awareness about issues related to digital rights, privacy and security. It also creates open data tools, trackers and research products that

support policy development and public discourse on these topics. CSOs generate ongoing public campaigns and awareness programs about the importance of privacy, digital rights and security.

Promote protection against surveillance and other forms of cyber violence: It advocates for a temporary stay on any forms of intrusive Surveillance technology until proper legal standards are established that protect human rights. CSOs provide resources and training to help individuals and organizations who are victims to cybercrime and those who may need digital security through activism or journalism, as well as communities at risk from these vulnerabilities.

Establish systemic evaluation and measurement: Its effectiveness is mostly measured through the development of metrics and assessment frameworks for CSOs' activities. It learns from experience and continually adjusts strategy to address evolving challenges.

Conclusion

Civil society in India is leading the charge in fighting for digital governance that is not only efficient and innovative, but also accountable, transparent and respectful of human and civil rights. Civil society has successfully acted as the overseer by advocating, litigating, conducting research, and building coalitions. Civil society organisations (CSOs), non–governmental organisations (NGOs) and independent media have challenged influenced policy development, misuse of power, and empowered citizens. However, the ability of civil society to perform this oversight function is threatened by regulatory backlash, diminishing civic space, and the multitude of risks that arise from living in a digital world.

Thus, Civil society's ability, vigilance and resilience to innovate will continue to be essential to strengthening of India's democracy and the protection of the digital rights of citizens. Civil society is a key defender of civil liberties, promoting transparency and ensuring public institutions. The private technology platforms are held accountable in the evolving digital environment prevalent in India today. They need to remain engaged to help to protect democracy in the digital world today.

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Conflict of interest:

The Authors have no conflict of interest to declare that they are relevant to the content of this article.