



THE NECESSITY TO DRAW LINES FOR THE DEMOCRATIZED MEDIA (SOCIAL MEDIA) IN INDIA

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Abstract : Social media as we know is a powerful tool for freedom of speech and expression, particularly for the voiceless. But this has unfortunately been increasingly used for illegal activities as well by all segments of society which includes individuals, corporations, and political leaders. The misuse of social media necessitates regulatory control and social media censorship but at the same time is of concern that it would result in violations of people's civil rights. In the majority of countries, the Government seems to have some authority over what kind of information a person would share and that's when the censoring comes into play. Moreover, it is to be noted, there could be a criterion similar to the "media certification and monitoring committee" which is used to monitor election campaigns generally on social media but is not censorship. As the present Information Technology Act, 2002 in India is insufficient to meet our society's current trends and social media usage, there is a serious need to draft guidelines by enlisting the help of technical experts and civil society specialists including the Government to examine all the aspects of the use and misuse of social media and suggest a reasonable approach that does not jeopardize individuals' civil rights, especially their freedom of speech and expression as assured under Article 19(1)(a) of the Constitution of India. Hence, the authors of this research paper would undertake an in-depth analysis of the position of the existing Indian laws regulating social media and venture upon the adequacy and effectiveness of those legislations. This paper tries to investigate the net censorship rules of some key countries in conjunction with the advantages and disadvantages of such a limit with a focus on the scenario and need in India. Further, the authors would suggest a suitable legal framework or regulation for democratized social media.

Keywords: Social Media, Regulation, Censorship, IT Act, Article 19(1)(A).

INTRODUCTION

Media plays a crucial role in any sort of society. Media is considered to be the fourth pillar of democracy. Media is the medium of conversation or dissemination of records to the masses. There are diverse varieties of media that consist of Television, Radio, Newspapers, Magazines, social media, etc. The term 'Social Media' has turned out to be a very popular expression in the generation of the information age. Social media is a set of online structures that permit the production, storage and distribution of user-generated content (Peter, 2013). It is a set of online communication systems which enables people to interact, share their minds and collaborate with each other. Some of the Social Media platforms are Facebook, Twitter, LinkedIn, Instagram, Blogs, etc. The nature of social interactions that take place via social media may be categorized into 3 types- Structured, Semi-Structured and Unstructured (Peter, 2013). In today's world, social media is one of the most popular methods of communication.

Social Media has turned to be the primary source of news, opinions and human interactions. Social Media has emerged as the data portal in society. They play a role in lots of social and political movements. Social Media has superior commercial and private uses (Shik, 2015). Almost a considerable period of time in a day, people spend on Social Media platforms. Thus, we can conclude that social media has to turn out to be an essential part of human communication. With the rapid rise in social media use, the market for this new platform is gaining significant importance. Social Media companies have gained popularity and are working further to bring innovation in this sector.

Social media as we know is an effective tool in exercising the right to freedom of speech and expression. Time and again, the Indian Judiciary has strongly heard that the right to freedom of expression consists of access to the internet and internet infrastructure (FaheemaShirin.R.K v State of Kerala, 2019). International instruments and the Constitution of India ensures this fundamental right to freedom of speech and expression. This right essentially means absolutely each person has the right to freely express themselves in any form. Article 19 of the Universal Declaration of Human Rights, 1948 (UDHR) assures that "Everyone has the right to freedom of opinion and expression; this right consists of freedom to hold opinions without interference and to seek, acquire and impart information and thoughts via any media and irrespective of frontiers" and Article 19(2) of the International Covenant on Civil and Political Rights, 1966 (ICCPR) assures that "Everyone shall have the right to freedom of expression; this right shall encompass the freedom to seek, receive and impart facts and thoughts of all kinds, irrespective of frontiers, either orally, in writing or print, in the form of art, or through every other media of his choice." Apart from the above international instructions, the Constitution of India under Article 19(1)(a) confers on the citizens of India the right "to

freedom of speech and expression (Romesh Thappar vs. State of Kerala, 1950)". This right that is assured via means of the International instruments and the supreme law of our land isn't always an absolute right however it is subject to reasonable restrictions enshrined under the Indian Constitution (The ICCPR, 1966, The Indian Constitution, 1950).

CONCERNS IN SOCIAL MEDIA USAGE

A coin has two sides! A head and a Tail, similarly social media also has its pros and cons. Apart from having a beneficial role, it also has negative roles that are being played. It is unfortunate to know that social media is being increasingly used for illegal activities by all segments of society which including individuals, corporations, and political leaders. Several Cyber-crimes, defamation, invasion of privacy, incitement of offences, racist remarks, stalking, abuse, hacking, harassment, etc. are easily committed through social media (Shishir, 2018).

Studies proved that the marketplace for privacy in social networks is dysfunctional (Joseph, 2009). The study discovered social media services rife with huge privacy gaps, poor privacy controls, and no legal privacy policies (Shik, 2015). The right to privacy is held to a fundamental right under Article 21 (K S Puttaswamy vs. Union of India, 2017) of the Constitution of India however, the users of Social Media networks compromise their privacy that allows you to experience the advantages of social media. The users are forced to click the disclaimers which are the privacy agreement in the form of a clickwrap agreement. These disclaimers are generally lengthy and not understandable by a layman thereby they are compelled to agree to the terms of privacy agreement that compromises the privacy rights of the users and excludes the liability of the service providers. This can be held to be a contract abuse and thus forms a justification for regulating this unchecked area.

The Right to freedom of speech and expression does not give room to a person to post anything and everything based on a mere opinion on social media as this would result in a major threat at times. The misuse of social media necessitates regulatory control in the interest of the larger public and at the same time is of concern that it would result in violations of people's civil rights. So, there may be a need to have a balance between the two.

EXISTING INDIAN LEGAL FRAMEWORK IN REGULATING SOCIAL MEDIA

India has the second-largest number of internet subscribers in the world after China as in step with 2021 records. According to the Freedom House's latest report 'Freedom on the Net, 2021', India's universal Internet Freedom Status is "Partly Free". India has secured a rating of 49 on a scale from 0 (least free) to 100 (most free) (Freedom on the net, 2021). Through the above report, one can infer that the Indian Government holds a high hand over the content in social media and largely it limits that content.

3.1 Regulatory Bodies

The Ministry of Electronics and Information Technology formulates policy referring to information technology, electronics, and the internet (Functions of Ministry of Electronics and Information Technology, 2021). The Department of Telecommunication below the Ministry of Communications manages the general improvement of the telecommunications sector, licenses internet and mobile service providers, and manages spectrum allocation (Department of Telecommunication, 2021). Internet protocol (IP) addresses are regulated through the Indian Registry for Internet Names and Numbers (IRINN) (IRINN policy version 1.1, 2021). Since 2005, the registry has functioned as a self-reliant body within the non-profit National Internet Exchange of India (NIXI) (Indian Registry for Internet Names and Numbers, 2021).

The Telecom Regulatory Authority of India (TRAI) was created in 1997 to modify the telecommunications, broadcast, and cable tv sectors (Telecom Regulatory Authority of India, 2021). The TRAI Act mandates transparency in the exercising of its operations, which incorporates tracking licensing terms, compliance, and service quality (The Telecom Regulatory Authority of India Act, 1997). Its reviews are posted online, generally preceded through multi-stakeholder consultation (The Economic Times, 2013). An amendment to the TRAI Act in 2000 set up a three-member Telecommunications Dispute Settlement and Appellate Tribunal (The Telecom Regulatory Authority of India Act, 1997).

3.1.1 The Indian Penal Code, 1860

The Indian Penal Code criminalizes numerous varieties of speech which include online content. The Indian Penal Code prohibits the manufacturing and transmission of "obscene material". Individuals may be sentenced to between two and seven years in jail for speech that is observed to be seditious (The Indian Penal Code, 1860), obscene (The Indian Penal Code, 1860), defamatory (The Indian Penal Code, 1860), to promote "enmity among distinctive groups on ground of religion, race, place of birth, residence, language (The Indian Penal Code, 1860), is deemed "prejudicial to the upkeep of harmony (The Indian Penal Code, 1860)," or includes statements, rumors, or reports which can cause fear or alarm, disturb public tranquility, or promote enmity or ill will (The Indian Penal Code, 1860).

3.1.2 The Telegraph Act, 1885

Communications surveillance can be carried out under the Telegraph Act, 1885 (The Indian Telegraph Act, 1885) to guard defense, countrywide security, sovereignty, pleasant relations with foreign states, public order, and to prevent incitement to a cognizable offence. Section 5 of the Indian Telegraph Act, 1885 permits the State and Central government to reserve any message to now no longer be transmitted in public emergencies. The Telegraph Act, 1885 levies civil penalties or license revocation for noncompliance (Abraham, 2017).

3.1.3 The Official Secrets Act, 1923

Internet users are also subject to criminal punishment under the Official Secrets Act for verbal exchange of data which could have a detrimental impact on the sovereignty and integrity of India (The Official Secrets Act, 1923). The National Security Act additionally permits the police to detain an accused person for up to 12 months without any charge and has been reportedly invoked against people accused of violations in their speech online (Biswas, 2018).

3.1.4 The Copyright Act, 1957

Intermediaries can one at a time be held answerable for infringing the Copyright Act, 1957 under the regulation and licensing agreements (Unified Licence Agreement, 2020). A 2012 amendment constrained the legal responsibility for intermediaries which includes search

engines that link users to material copied illegally, however, mandated that they disable public access for 21 days within 36 hours of receiving written notice from the copyright holder, pending a court order to put off the link (Prakash, 2012). Rules clarifying the amendment in 2013 gave intermediaries power to evaluate the legitimacy of the notice from the copyright holder and refuse to comply (The Copyright Rules, 2013).

3.1.5 The Code of Criminal Procedure, 1973

Section 144 of the Code of Criminal Procedure, 1973 which allows state actions to maintain law and order is used to restrict connectivity (Arun, 2016).

3.1.6 The Information Technology Act, 2000

The cyber regulation of India now incorporates provisions regarding blocking off of websites, tracking and accumulating internet traffic data (The Information Technology (Procedure and Safeguard for Monitoring and Collecting Traffic Data or Information) Rules, 2009), interception or decryption (The Information Technology (Procedure and Safeguards of Interception, Monitoring and Decryption of Information) Rules, 2009) of such data, unhindered access to sensitive personal data, holding intermediaries' viz. social media websites accountable for hosting user-generated objectionable content material, etc. In this backdrop, India has been taken into consideration as a country engaged in 'selective' Internet filtering (Joseph Bonneau, 2009). The Information Technology Act is the primary legislation governing cybersecurity and lays out penalties for damaging computers and computer systems.

Section 67 of the IT Act bans the publication or transmission of obscene or sexually specific content material in digital form, and Section 66D punishes the usage of pc sources to impersonate someone else to commit fraud. A 2015 Supreme Court ruling struck down a vast provision of Section 66A of the IT Act that criminalized information causing "annoyance," "inconvenience," or "danger," amongst other ill-described categories, and had brought about numerous arrests for social media posts from 2012 through early 2015. The court in the Shreya Singhal judgment (Shreya Singhal v. Union of India, 2015) affirmed that freedom of speech online is equal to freedom of speech offline, and held that Section 66A went beyond the reasonable restrictions on freedom of speech laid out in Article 19(2) of the Constitution.

Communications surveillance may be carried out under the IT Act, 2000. The IT Act seems to feature another vast category, permitting surveillance for "the investigation of any offence." (The Information Technology (Amendment) Act, 2008)

Section 69A of the Information Technology Act, 2000 allows the central authorities to order content takedowns on the internet. Blocking of websites takes place under Section 69A of the IT Act and the 2009 Blocking Rules (The Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009) which empower the central authorities to direct any organization or middleman to block access to information when satisfied that it is "essential or expedient" in the interest of the "sovereignty and integrity of India, defense of India, protection of the country, pleasant relations with foreign states or public order, or for stopping incitement to the commission of any cognizable offence referring to above (The Information Technology (Amendment) Act, 2008)." Intermediaries' failure to conform is punishable with fines and jail terms of up to seven years (The Information Technology (Amendment) Act, 2008).

3.1.7 The Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017

In August 2017, the DoT issued new rules, known as the Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, under Section 7 of the Telegraph Act, 1885 to regulate the temporary suspension of telecom services (Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017). The internet shutdowns are regulated through these Rules.

3.1.8 The Net Neutrality Rules, 2018

The Net Neutrality Rules, adopted in July 2018 with only a few exceptions, prevent internet carriers from interfering with content material, which includes prohibiting blocking, throttling, and zero-rating. In September 2020, TRAI advocated that the DoT set up a multistakeholder body to monitor ISPs' compliance with the guidelines. Providers will need to post reviews to and are seeking approval from a multi stakeholder body about their visitors control practices and any impact on services rendered (Recommendations on Traffic Management Practices, 2020). The body may even work to harmonize and evaluate traffic-management practices, and issue recommendations.

3.1.9 The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

The new Information Technology (The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021) Rules enacted in February 2021 impose new responsibilities for social media corporations, OTT structures, and virtual information outlets to regulate or otherwise censor content material. The Intermediary Rules 2021 modified the manner businesses have to share information with government organizations in certain circumstances. The guidelines require intermediaries to provide the authorities with statistics within 72 hours of receipt of a written order for identification verification, or the prevention, detection, investigation, or prosecution of offences under domestic law (The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rule & 3(1)(j), 2021). The regulations additionally impose new records-retention policies, requiring intermediaries to keep information for 180 days.

The Rules defines substantial social media intermediaries as agencies with at least five million users—have 36 hours from being notified to take away unlawful content material, which includes that which undermines the sovereignty of the state, pleasant relationships with different states, security, public order, decency, or morality. Content that indicates nudity or is an outline of a sexual act should additionally be removed within 24 hours of receiving a complaint. Significant social media intermediaries are also required to install computerized moderation equipment to proactively discover and remove offending classes of content, specifically child sexual abuse imagery. The agencies have to additionally notify users while their content is removed, provide a clear justification for the decision, and provide an avenue for appeal.

The Intermediary Rules 2021 impose certain regulations for anonymity online. (The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021) Significant social media intermediaries, or agencies with more than 5 million registered users, have to permit customers to "voluntarily" affirm their accounts using any suitable mechanism, which includes using mobile numbers. Companies

have to honestly mark which users have validated their accounts. While the verification mechanism is “voluntary,” virtual rights corporations have expressed issues over the opportunity of this being made obligatory in the future.

The Intermediary Rules 2021 imposed new responsibilities on social media services, virtual information publishers, and OTT platforms. Digital information platforms and OTT platforms running in India will have to provide information about their entities to the MIB and provide a month-to-month report of grievances they've received, along with information about any moves they took in response. (The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021)

The Intermediary Rules 2021 require that substantial social media intermediaries be capable of picking out the primary originator of information if asked by a competent authority or court in certain instances associated with public order, sexually explicit or child abuse material, and India's sovereignty, integrity, and security. (The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021)

The Rules imposed extensive duties on huge social media corporations to further moderate online content, undermine end-to-end encryption, and extend retention of personal data. It additionally mandated that virtual information media and streaming services adhere to a brand-new Code of Ethics that in part serves to protect against purported threats to sovereignty and national security. The code notes that content creators must keep in mind whether or not content affects India's sovereignty, jeopardizes security, or influences friendly relations with foreign countries (The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021). Further, OTT platforms are advised to bear in mind India's multireligious and multiracial society and be aware of content that pertains to religion and race (Bharadwaj, 2021). To put into effect the code, a self-regulation body and interdepartmental committee are granted a variety of powers, from soliciting for an apology or disclaimer to recommending that the authorities block content under Section 69A of the IT Act 2000.

SOCIAL MEDIA REGULATIONS IN OTHER NATIONS: COMPARATIVE ANALYSIS

The speed with which content can spread over social media is incredible to the point that it becomes a source of concern, especially while the disseminated content is doubtlessly defamatory or provocative. The general way content is posted under traditional media is that the media organization would edit the particular information before releasing it is consistent with the rules and suggestions however in the case of social media it is now no longer so, the content goes viral in a fraction of seconds with modifying the manner they want. And, because the importance of the internet in transmitting information in today's world through social media is easier and faster, communication these days is customized and interpreted to the way the user wants creates a significant impact on the receivers. Hence, it's the need of the hour to discuss the regulations governing social media in several countries and analyze the situation in India.

4.1 China

China, which is one of the world's finest socialist economies, has historically exercised authoritarian management over traditional media agencies which has now prolonged to social media as well. The stringent monitoring systems and firewalls, website shutdowns, and the incarceration of non-conformist bloggers and journalists are some of the measures taken.

In 2010, the Chinese authorities introduced the idea of “internet sovereignty” which made all of the users of the Internet in China, inclusive of foreign companies and individuals, adhere to the government's laws and regulations. Further, the Great Firewall of China, a nickname for The Golden Shield Project, is China's online surveillance and censorship centre, (Xu, 2021) and a web committee led by President Xi Jinping was appointed through the State Internet Information Office which went inflexible on the internet content in the year 2013. It's to be cited that the censorship legal guidelines of China are the most restrictive ones in the world. In early 2015, the authorities made it tough for internet users to get the right of entry to U.S websites like Google and Facebook by clamping down on Virtual Private Networks (VPNs). Concurrently, the ban on famous foreign social media had resulted in the flourished boom of state-authorized Chinese equivalents particularly Youku and Tudou (equivalents of YouTube), Sina Weibo (the equivalent of Twitter), Douban and Renren (equivalents of Facebook) (Crompton Thomas, 2011) that are intently monitored by the authorities

4.2 United Kingdom

The UK had undertaken regulations for social media through the publication of a series of white papers in April 2019, which is based on installing an overarching principle of “duty of care” towards end-users. The proposed paper is not constrained to social media platforms; it extends to file-sharing sites, discussion forums, and e-commerce websites—which are mandated to take “responsible steps” in the direction of user safety, transparency, and tackling harms. (Online Harms White Paper, 2019) The government is close to passing legislation prohibiting social media platforms such as Facebook, Instagram, Tiktok, and Twitter that host user-generated content from distributing content about cyberbullying, suicide, sexual abuse, terrorism, pornography, and other different things. The goal of these regulations is to safeguard children and young audiences from the dangers of the internet. It emphasizes the importance of empowering users by improving their digital abilities to combat misinformation and other forms of online harm. An independent regulator will be formed, with the authority to levy large fines against social media platforms and their senior executives. The paper dictates a risk-based approach, which aims to proportionate regulatory action to counter harms with the greatest impact on individuals. (LohaniArchit, 2021)

According to Hill and Bradshaw (2018), the United Kingdom is going through a disaster of democracy because of the systematic manipulation of records in cyberspaceto regulate the conduct of citizens,through misinformed campaigns and hate messages. As per Gross (2017) one of the most recent threats is WhatsApp, which is considered as one of the biggest tools for spreading fake news across the globe among billions of its users, and many countries and their legal systems are battling with this growing menace which has both personal user data safety and law and other implications in their society (Kabha Robin, 2019).

4.3 Germany

In terms of social media regulation, this country has set a very high bar. Given its history of strong hate speech concerns, it has enacted the "NetzDG" regulation which is also known as the Facebook Act in July 2019, that requires manifestly illegal content including hate speech posts to be removed from platforms within 24 hours or face huge fines of amount up to €50 million. It's a classic "takedown, ask later" (Subhashree, 2021) the approach that has been deemed important and powerful in the combat against online extremism

4.4 Australia

After the suicide of a popular TV personality, Charlotte Dawson, who was the victim of a cyber-bullying campaign on Twitter, the discourse on digital content regulation reached its peak in the year 2015. It prompted the enactment of the Enhancing Online Safety Act, which made it mandatory for social media businesses to remove threatening and abusive posts or face severe criminal penalties. (Subhashree, 2021) Australia recently introduced an Act named Sharing of Abhorrent Violent Material Act in 2019, in which it introduced criminal penalties (up to 10% of their annual turnover) for tech companies and executives for their failure to prevent the circulation of such content on their platforms. This law was passed after the Christchurch terrorist attack, which was live-streamed on Facebook. (Siripurapu, 2021)

4.5 New Zealand

In New Zealand after the incident of Christchurch on Facebook, there was a rallying cry from the public to prevent instances of online violence in the country. (Subhashree, 2021) This led to the signing of the "Christchurch Call" in May 2019 an agreement by 48 countries so far including India and representatives from eight different tech companies that include Amazon, Google, Microsoft, Twitter, Facebook, and YouTube with an attempt to carry to an end the capacity to apply social media to arrange and promote terrorism and violent extremism. (NZ and France seek to end use of Social media for acts of terrorism, 2021)

4.6 Saudi Arabia

When it comes to policies of any kind, the Middle Eastern countries have not been tolerant and aren't any different on the aspect of the internet as well. In 2014, Saudi Arabia passed a Counterterrorism Law that criminalizes online expression that promotes atheism, insults the country's reputation, harms public order, or threatens national security, among different things."(Greeshma, 2016) This is fairly broad and easy to extrapolate that the King in this country of absolute monarchy possesses a great deal of influence over any internet content. There were numerous stories of humans being imprisoned for his or her online activities. From bloggers to social media users, the Saudi government is keeping a close eye on all. In Saudi Arabia, many websites are blocked and people have started to believe that freedom of expression online is a faraway dream.

Furthermore, in step with a report by Human Rights Watch and Amnesty International, the authorities make use of spyware to target activists and criticize the activities of individuals who express critical perspectives of the Government (Howard, 2021) Therefore, despite the widespread censorship, it's seen that social media platform function with remarkable freedom.

4.7 Bangladesh

When satirical pictures of Prophet Mohammed had been published online in 2010 (Colhoun, 2021) The Bangladesh government imposed a temporary ban on Facebook as the accessibility and popularity of social networking was at a higher rate in the nation.

Similarly, Bangladesh's authorities restrained six social media platforms Facebook, WhatsApp, Line, Messenger, Tango, and Viber in the year 2015 for protection issues following the Bangladesh Supreme Court's decision to maintain the death sentences of two effective opposition leaders for war crimes committed during the 1971 independence struggle (Hosain, 2015). Later in December, the ban was lifted because the authorities felt that the threats had subsided. Within a year, Bangladesh's mobile and social presence tripled, making way for 80 per cent of internet users to get the right of entry to Facebook (Greeshma, 2016) This limit had critical ramifications for agencies that depend upon social media platforms, in addition to news corporations which including the BBC which regard social media to be their backbone in the virtual era.

CONCLUSION AND SUGGESTIONS

A critical analysis of the legal framework that exists today in India concerning Social Media would infer that the Government has a high hand over Social Media. Despite the same, still, the misuse of Social Media remains the same. There exist many laws including the Information Technology Act, 2000 which touches upon regulating Social Media and specific rules framed in this regard but the need of the hour is a specific and comprehensive law regulating Social Media.

On seeing, the ability to disseminate information over social media seamlessly a need to regulate the content of such information has arisen. From the above regulations that have been discussed in different countries, we come to an understanding that diverse regulations were applied to prevent the unfolding of fake information in society. There are stringent measures that have been taken to protect the public and in addition ensure harmony and privacy of its citizens in this digital world. India could refer to the regulations of other countries for deciding the laws as it's high time there are certain restrictions imposed on posting of information on social media as there have been several instances when the same has been misused for other purposes that are harmful and creates an adverse impact. Therefore, the legal measures taken by other countries have set a specific accountability standard for the social media platforms that could be referred to for ideas although the approach taken by each country is different, and overall study would help in framing laws in a better manner.

In the majority of countries, the Government seems to have some authority over what kind of information a person would share and that's when the censoring comes into play. It's no doubt that social media is a platform to express one's thoughts and implementation of censorship might violate their freedom of speech and expression however this right isn't always absolute and is subject to reasonable restrictions.

Therefore, there is a necessity to bring in censorship and lay down strict guidelines. The rationale for censorship is that public consumption of some kind of information could jeopardize the State's integrity or harmony, or the integrity or harmony of a specific community or individuals for which generally social media censors its users to prevent them from posting content that is objectionable through their terms of service or the government censors how residents use social media however what makes this complicated is that the idea of worldwide limitations does not exist in terms of social media. Moreover, it is to be noted, there could be a criterion similar to the "media certification and monitoring committee" which is used to monitor election campaigns generally on social media but is not censorship.

As our present Information Technology Act, 2000 in India is insufficient to meet our society's current trends and social media usage, there is a serious need to draft guidelines by enlisting the help of technical experts and civil society specialists including the Government to examine all the aspects of the use and misuse of social media and suggest a reasonable approach that does not jeopardize individuals' civil rights, specifically their freedom of speech and expression as assured under Article 19(1)(a) of the Constitution of India.

REFERENCE

- [1] Abraham Sunil et.al. (2012) Government Access to Private Sector Data in India, Vol. 2, No. 4, International data privacy law. Oxford University press 307. [10.1093/oso/9780190685515.001.0001](https://doi.org/10.1093/oso/9780190685515.001.0001)
- [2] Ardern Jacinda. (2021, Sep 21) NZ and France seek to end use of Social media for Acts of terrorism, *New Zealand Government*. <https://www.beehive.govt.nz/release/nz-and-france-seek-end-use-social-media-acts-terrorism>.
- [3] Arun Chinmayi. (2016, Feb 24) Demarcating a safe threshold. *The Indian Express*. <https://indianexpress-com.cdn.ampproject.org>
- [4] Bharadwaj Deeksha. (2021, Feb 25) Code of ethics: What OTT platforms, such as Netflix and Hotstar, may have to follow, *Hindustan Times*. <https://www.hindustantimes-com.cdn.ampproject.org>
- [5] Biswas Soutik. (2018, Dec 22). The Indian journalist jailed for a year for Facebook posts, *BBC News*. <https://www-bbc-com.cdn.ampproject.org>
- [6] BonneauJoseph et.al. (2009). The Privacy Jungle: On the Market for Data Protection In Social Networks. Paper presented at the Eighth Workshop on the Economics of Information Security, *University of Cambridge*. <http://weis09.infosecon.net/files/156/paper156.pdf>
- [7] Chen Peter, J. (2013). *Social media - Australian politics in a digital age*. 69-112. Anu press. <http://doi.org/10.22459/APDA.02.2013>
- [8] Colhoun Damaris. (2021, Sep 21). Social Media Censorship in Bangladesh Hints at Long-term Problems for Publishers, *Columbia Journalism review* http://www.cjr.org/analysis/bangladesh_social_media.php.
- [9] Department of telecommunication. *Govt of India. Ministry of communications*. <http://dot.gov.in/#>
- [10] DTH operators should provide interoperability of STBs. says TRAI Chairman. (2013, Dec 10). *The economic times*. <https://m.economictimes.com/industry>.
- [11] Faheema Shirin R.K V. State of Kerala. WP(C).No.19716 OF 2019(L) <https://calr.in/faheema-shirin-r-k-v-state-of-kerala>
- [12] Freedom on the Net 2021. *Freedom House* <https://freedomhouse.org/country/india/freedom-net/2021>.
- [13] Functions of the Ministry of Electronics and Information Technology. *Ministry of Electronics and Information Technology Government of India*. <https://www.meity.gov.in/about-meity/functions-of-meity>.
- [14] Government notifies Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021, *Press Information Bureau*. <https://pib.gov.in/PressReleaseDetailm.aspx?PRID=1700749>.
- [15] Govindarajan Greeshma Et.al. (2016). Freedom of Expression on Social Media: Myth or Reality, Vol. 7/No. 1 *Global Media Journal – Indian Edition*. <https://www.caluniv.ac.in/global-mdia-journal/SR-2016-NOV/SR1.pdf>
- [16] Hosain Osman. (2015, Nov 24). Facebook, WhatsApp, Viber blocked 'indefinitely' in Bangladesh. *The Tribune*. <http://tribune.com.pk/story/997382/facebook-whatsapp-viberblocked-indefinitely-in-bangladesh/>.
- [17] Howard Alexander. (2015, May 26). In Saudi Arabia, Embracing New 'Freedom' On Social Media May Come With Serious Risks. *Huffpost*. http://www.huffingtonpost.com/entry/saudi-arabia-socialmedia_n_7444742.html?section=india.
- [18] *The Indian Penal Code 1860 § 292, 293 (Ind)*.
- [19] *The Indian Penal Code 1860 § 505 (Ind)*.
- [20] *The Indian Penal Code 1860 §153B (Ind)*.
- [21] *The Indian Penal Code 1860 §499 (Ind)*.
- [22] *The Indian Penal Code 1860§124A (Ind)*.
- [23] *The Indian Penal Code 1860§153A (Ind)*.
- [24] Indian Registry for internet names and numbers. *About us*. IRINN. http://www.irinn.in/pages/static/about_us.html.
- [25] *Indian Telegraph Act, 1885§ 5(2) (Ind)*.
- [26] IRINN Policy Version 1.1. *Indian registry for internet names and numbers.(IRINN)*. http://www.irinn.in/pages/static/IRINN_V1.pdf.
- [27] K.S. Puttaswamy v. Union of India. AIR 2017 10 SCC1. <https://indiankanoon.org/doc/127517806/>
- [28] KabhaRobin et.al. (2019). Comparison Study between the UAE, the UK, and India in Dealing with WhatsApp Fake News, Vol. 10 Year 5.176. *Journal of content, community and communication*. <https://www.amity.edu/gwalior/jccc/pdf/jccc-12-1918.pdf>
- [29] KishorechandraWangkhem. (2019). Preliminary Report on the Detention of Indian Journalists. *American bar association*, https://www.americanbar.org/groups/human_rights/reports/preliminaryreportdetentionofindianjournalist/
- [30] Lamdan Sarah Shik. (2015). Social Media Privacy: A Rallying Cry to Librarians. *Research Gate*. Vol. 85. No. 3. pp. 261-277 .[10.1086/681610](https://doi.org/10.1086/681610)
- [31] Lohani Archit. (2021). Countering Disinformation and Hate Speech Online:

- [32] *The Official Secrets Act 1923* § 5. (Ind.)
- [33] Online Harms White Paper, *Government of United Kingdom*, 2019. <https://www.gov.uk/government/consultations/online-harms-white-paper/online-harms-white-paper>
- [34] Prakash Pranesh. Analysis of the Copyright (Amendment) Bill 2012. *The centreforinternet and society* <https://cis-india.org/a2k/blogs/analysis-copyright-amendment-bill-2012>.
- [35] Recommendations on Traffic Management Practices (TMPs) and MultiStakeholder Bodyfor Net Neutrality, *telecom regulatory authority of India*, Para 4.14, https://www.trai.gov.in/sites/default/files/Recommendations_22092020.pdf.
- [36] Romesh Thappar v. State of Madras. AIR 1950 SC 124. <https://indiankanoon.org/doc/456839/>
- [37] Shreya Singhal v Union of India, AIR 2015, 5 SCC 1. <https://indiankanoon.org/doc/110813550/>
- [38] Siripurapu, A., & Mellow, W. (2021). Social Media and Online Speech: How Should Countries Regulate Tech Giants? Council on Foreign Relations. <http://www.jstor.org/stable/resrep31160>
- [39] SubhashreePadmini. (2021, Sep 20). India's New Rules On Social Media Regulation –AComparative Analysis vis-à-vis Other Major Democracies, *Transfin*, <https://transfin.in/indias-new-rules-on-social-media-regulation-a-comparative-analysis-vis-a-vis-other-major-democracies>.
- [40] Telecom regulatory authority of India. *History*. TRAI Gov.in. <https://www.trai.gov.in/about-us/history>.
- [41] Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017. *Ministry of communications*. <http://www.dot.gov.in/sites/default/files/Suspension%20Rules.pdf?download=1>.
- [42] *The Information Technology (Amendment) Act 2008* § 69. (Ind.)
- [43] *The Information Technology (Amendment) Act 2008* § 69A (1). (Ind.)
- [44] *The Information Technology (Amendment) Act 2008* §69A (3). (Ind.)
- [45] *The Information Technology (Guidelines for Intermediaries and Digital Media Ethics) Rules, 2021*, Code of Ethics- Principle II(A)(C). (Ind.)
- [46] *The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021* -Rule 3(1)(j). (Ind.)
- [47] *The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021* - Rule 54(7). (Ind.)
- [48] *The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021*- Rule 18 and 19. (Ind.)
- [49] *The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021*”, Rule 4(2). (Ind.)
- [50] *The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021* -Rule 3(1)(j). (Ind.)
- [51] *The Information Technology (Procedure and Safeguard for Monitoring and Collecting Traffic Data or Information) Rules, 2009*. (Ind.)
- [52] *The Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009*. (Ind.)
- [53] *The Information Technology (Procedure and Safeguards of Interception, Monitoring and Decryption of Information) Rules, 2009*. (Ind.)
- [54] The Telecom Commercial Communications Customer Preference (Fifteenth Amendment) Regulations. (2014, Feb 14). *Telecom Regulatory Authority of India*. TRAI. <https://traigov.in/release-publication>
- [55] *The Telecom Regulatory Authority of India Act 1997* § 14. (Ind.)
- [56] *The Telecom Regulatory Authority of India Act 1997* §11 (4). (Ind.)
- [57] Thomas Crompton. (2011, Jan 1). Social Media in China: The Same, but Different, *China business review*, <http://www.chinabusinessreview.com/social-media-in-china-the-same-butdifferent/>.
- [58] Tiwari Shishir et.al. (2018). Social Media and Freedom of Speech and Expression: Challenges before the Indian law. *Research Gate*. [10.2139/SSRN.2892537](https://doi.org/10.2139/SSRN.2892537)
- [59] UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <https://www.refworld.org/docid/3ae6b3aa0.html>
- [60] Unified License Agreement. *Department of Telecommunications, 2020*. *Ministry of Communications and Information Technology*. http://dot.gov.in/sites/default/files/Unified%20Licence_0.pdf.
- [61] Xu Beina. (2021). Media Censorship in China, Council on Foreign Relations. <http://www.cfr.org/china/media-censorship-china/p11>