

Information Technology Laws: Mapping the Evolution and Impact of Social Media Regulation in India

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ABSTRACT

Growing misuse of social media calls for an urgent move towards greater legal regulation to control the menace of fake news, hate speech and disinformation among democracies. Online interactions have undergone an evolution that threatens not only free speech, privacy, data protection, national security but democracy as a whole. The subject matter assumes significance, in a democracy like India, which has recently notified a new regulatory regime - Information Technology Rules, 2021, that has fundamentally changed the regulation of online content in India. This development warrants revisiting the prior regulatory regimes to analyse the new rules and guidelines and their impact on public sphere. The fact-finding review paper aims at mapping the evolution of laws governing online content in India. The study is based on reviewing existing laws, regulations, policies, research papers, media reports and articles. It also seeks to explore the linkages between the legislative regulatory gaps and regulatory framework covering rules and principles on instances of internet governance to find solutions for future developments. After critically examining new guidelines, the study found a case of overreaching provisions that dilute free speech and privacy.

Keywords: Information technology act (IT Act); Social media regulation; Internet governance; Censorship; Free speech

1. INTRODUCTION

During the pandemic, COVID-19, while the whole world is trying their best to blunt the outspread of coronavirus, there is a vile trend of circulation of disinformation, fake news and sharing false data related to the virus on social media platforms creating panic among people. While online media platforms allow users to share information, they have also become fertile tools for illegal and harmful content to thrive. The spread of objectionable content on online space has become toxic. Discreet use of free speech is also posing threat to democracy. The online information ecosystem is exploited to demean democratic institutions, divide society, manipulate public opinion and even influence voting patterns to distort democracy. Social media content, interaction, and discourse not only impinge free speech, data protection, national security but democracy as a whole. Therefore, the free flow of information has raised a call for content regulation.

In India, there is no dedicated legislation that deals with social media but it is governed by a plethora of laws. The growing misuse of online space has made the government realize the limitations of existing laws in dealing with such challenges. Online regulation is a burning issue in a country where freedom of speech and expression is guaranteed by the Constitution. The subject matter assumes more significance in a democracy like India, which has recently notified a new

regulatory regime - Information Technology Rules, 2021 - aimed at digital media regulation, which falls under the ambit of subordinate legislation as no new law enacted until now.

2. BACKGROUND

The rise of online political and social subversion, exploitation of existing tensions within their societies and polarisation based on religion, race and gender have distorted democracy like never before. The rise of new-age technologies such as Artificial Intelligence (AI) and Machine Learning (ML) have also exacerbated the problem to a new heights. It has raised several ethical questions that stifle free speech and political processes. Experts in the field have raised concerns about AI-boosted algorithmic fairness that leads to discriminatory practices like hate speech against race and gender, privacy infringement and user manipulation¹.

Donald Trump's victory in 2016 reinforced the impact online media could have on the political process and democracy. The world witnessed how the use of AI-propelled algorithms boosted disinformation campaigns impacting opinion formations and voting judgements of the American people². In 2018, American public policy think tank, German Marshall Fund observed – “*as the dependency of artificial intelligence that powers our daily lives grows, algorithms would hold sway, enabling destructive elements to infiltrate government and corporate networks to steal information, compromise individual privacy and distort electioneering without much of a trace*”³.

The regulation aims to serve many distinct purposes such as preservation of free speech, privacy, data protection, accountability, fair competition and diversity of opinion. Stakeholders, policymakers and experts have been flagging the concerns of the ineffectiveness of self-regulation by tech firms to keep users safe and for that, - a statutory regulatory framework should be introduced to fill the legal vacuum⁴. The Supreme Court in the Shreya Singhal case (AIR 2015 SC 1523) said Parliament should bring a new law to regulate social media. The Apex Court has been periodically reminding the government of the urgent need for legislation to keep pace with the ever-evolving information communication technology (ICT) challenges.

In India, social media services are not well-defined. Liability is also not laid out consistently by the relevant legal provisions since its emergence post-2000. The purpose of internet governance and regulation of social media is to check and control the spread of disinformation, fake news that sparked unrest and violence as tech companies and rights activists fear such measures as a threat to free speech.

However, law enforcement mechanisms dispute social media service provider's bid to distinguish itself as a "platform" rather than a "publisher" which enables the firm to evade responsibility for content posted on its sites. While print and electronic media are liable for anything published on their platforms but online platforms have immunity. Similarly, there is no clarity about how certain posts are removed by the service providers. Moderation and policies on cooperating with law enforcement do not always reflect a consistent pattern.

There was an urgent need for accountability for content publishing online. The IT Rules, 2021 has tried to fix loopholes related to governing the online space. However, rights activists screaming about censorship and miscasting content moderation as the demise of free speech due to overreaching provisions having no legislative sanction.

Therefore, the paper undertakes to map previous attempts at laws and regulations before analysing the new rules in detail for a better understanding of the evolution of social media/online content governance in India.

3. OBJECTIVES

The primary objective of this review paper is to highlight current attitudes toward the governance of online social interaction in the country. It aims to find these answers by mapping the evolution of the regulatory mechanism adopted by India in the last two decades. The study reviews scholarly literature to understand laws by encapsulating the prior regulatory regimes in one fold for the benefit of future research on the subject.

4. LITERATURE REVIEW

The development of social media in the wake of information technology in our daily lives is less than fifteen years old and accordingly the growing challenges as to the legal issues concerning social media being not much older. It is in the backdrop of this fact that the literature review of the present paper has got to be appreciated and understood.

Therefore, the purpose of the literature review seeks to explore the present work within the existing literature on new media from both academic and journalistic points of view. The study identifies some relevant academic papers, books, media reports and news articles related to the subject. But it was difficult finding some research work devoted exclusively to explore the evolution of regulation of new media in India.

Existing literature fails to appreciate the linkages between legislative and regulatory gaps and the justice delivery system from social media perspectives. Therefore, more research work is needed to be done in order to fill the gap related to the regulation of new media in India.

The focus and orientation of the present work are basically with regard to recent controversies in India and the emerging challenges in the Indian context. That is the reason why this paper does not cover the evidentiary aspects of social media content.

5. TOWARDS SOCIAL MEDIA REGULATION

Social media regulation is perceived from the perspective of primarily two crucial areas – privacy and free speech. Considering the extraordinary potential of asymmetrical information dissemination there is every possibility that the digital media platforms are being misused by powerful people in furtherance of commercial and political gains. The rapid technological advancements impose upon the state a very onerous responsibility of balancing the rights of individuals against society, each other, and sometimes with itself. The all-pervasive nature of the interest causes a variety of concerns that have become an important talking point in global and regional politics⁵. It is in this background the regulation has been analysed and explained.

With the rise of online technology post-2000, the world witnessed enormous growth in the volume of digital information exchanges. It provided immense opportunity for economic activities to create wealth often termed as 'knowledge economies'. In 2002, a World Bank report⁶ stated that the countries desirous of capitalising on the knowledge economies set up a regulatory that enable the free flow of knowledge and support investment in the technology. World economies scramble for adopting a regulatory framework to reap immense economic and social benefits of the new age technology unfolding at that time. India followed the global trend and brought out a mechanism to regulate e-commerce.

6. INFORMATION TECHNOLOGY ACT, 2000: SUBSTANTIVE LAW

Indian Parliament legislated the Information Technology Act⁷, 2000 (IT Act) that came into force in October 2000. It was a watershed moment in the evolution of digital media regulation in India being the substantive law that deals with electronic commerce and cybercrimes, to begin with. The law was enacted based on the United Nations' recommendations to adopt United Nations Model Law on Electronic Commerce, 1996, popularly known as UNCITRAL Model. The Act mainly provides for the legal framework for e-commerce and the prevention of cybercrimes in the country.

It essentially focused on combating cybercrimes even though cybercrime - the term not defined in the Act - only delved into few instances of computer-related crimes. The legislation was not well suited to deal with social media and internet related other issues. Sensitive issues like free speech, privacy, data protection, and other crucial aspects related to online discourse were not defined. The parameters of due diligence for social media entities were also not defined under the Act. The Act amended numerous criminal and evidentiary statutes including the Indian Evidence Act, 1872 and the Indian Penal Code, 1860.

Consequently, the government set up an expert committee to review the IT Act in January 2005. The committee found substantial lacunae in the existing Act and submitted its report by recommending several changes because of the developments especially in the area of data protection and privacy. Later, the Information Technology (Amendment) Bill 2006 was introduced in Parliament. Amendment Act⁸ was passed in December 2008 and come into effect in October 2009.

6.1 Information Technology (Amendment) Act, 2008

The Amendment Act, 2008, made some sweeping changes in the existing IT Act, 2000 framework, incorporating new express provisions to bring more cyber offences within the purview of the original Act. It brought various provisions in the new amendment relating to individual data protection and privacy as well as provisions to curb child pornography, voyeurism and cyber terrorism using the electronic and digital medium.

To keep pace with the rapid growth of social media in India, the Amendment introduced Section 66A (it dealt with offences on the internet) that penalised the use of “*offensive messages*”, which was struck down by the Supreme Court as unconstitutional in *Shreya Singhal case*⁹ in 2015. The court ruled it arbitrary, disproportionate and unreasonable restriction on the right to free speech. The apex court reiterated that the speech available online should have the same level of constitutional protection of free speech as that available offline under Article 19 of the Constitution of India. However, police still invoke this provision to crack down on free speech.

It brought “*government surveillance*” in the form of Section 69 which gave power to authorities to intercept, monitor or decrypt information¹⁰. Websites can be blocked under this Section. Section 69B provides powers to collect traffic data from any computer resource. These provisions come under various rules such as the - “Information Technology (Procedure and Safeguards for Interception, Monitoring and Decryption of Information) Rules, 2009” and the - “Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009” - that are vested with the government have given rise to be misused.

Sections 69A and 69B together provide that the governments may issue directions for blocking of websites for cyber security - in effect, a method of internet censorship. These provisions stirred a lot of scepticism regarding the legitimacy of the government to invoke such kinds of provisions which give rise to internet censorship¹¹.

Most importantly, the amendment of 2008 had clearly defined “*intermediary*” to fix the onus of offence. It said intermediary means social media platform which is a legal entity, who on behalf of users’ receive, store or transmit electronic records and provide services for those records. It mandates intermediaries to remove unlawful content on receiving information about it. The amendment calls for “*due diligence*” on part of these service providers while disseminating information.

Section 79 of this amendment provides immunity to an intermediary of third-party content, data or communication link posted by the users and the service provider will not be held liable for users’ content. The provision was in line with the US provision “*Safe Harbour*” law. Section 230 of the US Communication Decency Act, 1996 which is popularly known as the ‘Safe Harbour’ principles protect free speech along with the carriers of speech i.e. service providers. This was a major change brought into the Act through amendment at that time which has become a soaring issue in the present day context when the government wants intermediaries to share the responsibility of users’ content. Service providers i.e. intermediaries crying foul over the move of stifling free speech in name of the regulation.

6.2 Information Technology (Intermediaries Guidelines) Rules, 2011

In a bid to widen the scope of “*due diligence*” by the intermediary, the government framed comprehensive guidelines in April 2011. The rules were framed in exercise of the power conferred upon it under Section 87(2) read with Section 79 of the IT Act. “*The rules place a heavy burden upon intermediaries to exercise due diligence while discharging their functions, forcing them to screen content and exercise online censorship*”. However, it would be been very difficult for intermediaries to comply with these requirements given the sheer volume of content hosted and the complicated question of violations of the law¹².

The Supreme Court in the landmark case of *Shreya Singhal vs. Union of India* delivered on March 24, 2015, significantly, laid down two qualifications on the operation of the provision. “*Firstly, that the intermediary would only be obliged to remove or disable access to such content upon receiving actual knowledge that a court order had been issued directing it to do so*”. “*Secondly, that the court order or the notification by the appropriate government authority must seek to restrict such content in conformity with reasonable restrictions laid down in Article 19(2) of the Constitution*”.

To conclude, the enactments were not in line with the challenges the online media posed for its regulation. The clarity on the law relating to new media, very often, is brought by the way of judicial pronouncements.

7. INDIA’S NEW DIGITAL MEDIA RULES: DAWN OF NEW ERA

The Indian government, in April 2018, accepted through an order that there is “*no norms or guidelines existed for online media websites and news portals and it plans to regulate digital*

media and deal with issues like fake news and other things which are not directly covered under the IT Act¹³.

Subsequently, the government filed an affidavit in the Supreme Court in October 2019, admitting the need to regulate content on social media. According to the affidavit, the Indian government was worried about social media and stated “it has emerged as a potent tool to cause unimaginable disruption to the democratic polity from unregulated social media content”. It further added that “India wanted to move ahead with its plan to revise the existing rules to regulate intermediaries – social media apps and others that rely on users to create content- as they are causing, ever-growing threats to individual rights and nation’s integrity, sovereignty and security”¹⁴. The new social media regulations were expected to be notified any time soon thereafter.

India notified¹⁵ the “Information Technology (Intermediary Guidelines and digital Media Ethics Code) Rules, 2021”, on 25 February, to primarily regulate social media and extended to OTT - online video streaming platforms, digital news and current affairs service providers, bringing them under the purview of specific regulation for the first time. The scope of regulation under the new guidelines has been expanded and online news media and OTT platforms have been included for the first time as these were not previously regulated under the provisions of the IT Act. The new regulatory regime came into force on 26 May after the three-month deadline for social media platforms to comply with the new guidelines ended.

7.1 Overview of India’s New Online Content Regulatory Regime

The Ministry of Electronics and Information Technology (MeitY) and Ministry of Information and Broadcasting (MIB) are the two nodal Ministries responsible for the administration of new-age online media. There are other regulatory bodies such as Cyber-Appellate Tribunal, Telecommunication Regulatory Authority of India (TRAI) and Telecom Dispute Settlement and Appellate Tribunal (TDSAT) under MeitY which also deal with internet governance issues in India apart from regulating telecom and cable television in India. It was MeitY which notified the new rules and guidelines being the nodal Ministry to administer the internet in the country.

MeitY is responsible for the regulation of intermediaries related to social media platforms such as Facebook, WhatsApp, Instagram, Twitter, LinkedIn, YouTube and other apps. While regulation of online news media and video streaming platforms such as Disney Hotstar, Amazon Prime and Netflix rest with MIB, which regulates mainstream media such as print, radio and television content though there is no clarity over the exact definition of news media and OTT.

Announcing drastic changes in the new rules for social media companies and a code of ethics for OTT as well as digital news media, the government goaded that the new regulatory regime would usher in “empowering the ordinary users of social media”. It comes out with an overview of keeping pace with the challenges posed by the online space in the country. The new guidelines aimed at achieving parity between digital media, print and television news regulation, the government says.

The new guidelines mandate a series of responsibilities on the global internet firms requiring them to be more accountable to “misuse and abuse” of online platforms and to address grievances of people who have been unfairly targeted through hate speech and trolling. The Rules stipulate social media platforms to divulge details of the “originator” of objectionable content as and when asked by the government or courts. The new rules empower the government to block, delete, or modify published content/news within 24 hours.

New rules stipulate categories of objectionable contents that the social media platform should not host. The updated Rules seeks to remove objectionable content within stipulated timelines. Platforms mandated to identify the source of objectionable/unlawful content asked by government agencies.

Furthermore, Rule 4 of the 2021 Rules provide 16-day diligence rules to be followed by intermediaries in India. This “Due Diligence” clause has become too tricky for intermediaries to handle. Failing to adhere to these strict norms would invite losing of protection given to intermediary under the “Safe Harbour” principle. Particularly the personal liability of intermediary officers for criminal and civil action over third party content. The clause mandates intermediary to post a grievance officer based in India who should be held liable for objectionable contents.

But the requirement of tracing out of originator of information comes into a direct conflict with the right to privacy norms that can break existing protocols of protecting users’ end-to-end encryption by platforms that ensures the safety of users’ messages remains intact.

8. NEW GUIDELINES: A CASE OF OVERREACH

Defending the new guidelines government said it was committed to ensuring privacy and national security. In the light of the government’s stand, it is pertinent to examine these new rules. Have provisions related to traceability of first originator, intermediary liability and executive oversight of digital media content violate privacy and free speech? Have the rules framed adequately address the privacy issue versus security need, especially related to the intermediary?

Tech policy and civil rights groups decry over these provisions which will lead to censorship and surveillance to control the dissemination of the online ecosystem in the country and called for its immediate withdrawal. Complying with a vastly tighter set of rules has already been challenged in the courts by some of the digital news outlets including social media giant WhatsApp over traceability vis-à-vis privacy issues. Suits have been filed in four different High Courts of the country challenging the validity of the IT Rules. Google also approached the Delhi High Court against the stringent provisions. Even the UN Special Rapporteurs¹⁷ reported that new IT rules do not conform to international human rights norms.

8.1 Intermediary Defined too Broadly

Definitions of social media intermediary (SMI) is too broad because the definition is too vague that includes every

conceivable online platform into its fold. The new definitions include telecom service providers like (Airtel, Jio), network service providers, internet service providers, web-hosting service providers (GoDaddy), search engines (Google), online payment sites (RazorPay), online retail platforms (Amazon), social media platforms (Facebook, Twitter), online news websites and even the online gaming apps with chat features besides several others. Over 50 lakh registered users in India comes under the purview of Significant Social Media Intermediary (SSMI) which has adhered to the stringent provisions of new Rules. Business-oriented transactions, search engines, email services were excluded from the definition of the previous Intermediary Rule. The definition is wide enough to monitor any kind of interaction to regulate social media which goes against the spirit of privacy and personal data protection and gives rise to surveillance.

8.2 Loss of Intermediary Status: Due Diligence and Safe Harbour

“Due Diligence” clause under new rules threaten to deprive intermediaries of their safe-harbour immunity in the event of non-compliance with the said clause. Protection under Section 79 of IT Act, called the “Safe Harbour” principle which protects free speech as well as the carriers of free speech i.e. intermediary, is made conditional for them under new guidelines. To claim this protection, an intermediary must adhere to this clause, failing which the protective shield would not be available. Rule 4 of the 2021 Rules provide 16-due diligence rules to be followed by intermediaries in India.

The rules have completely changed the existing norms of social media regulation in India. Significantly, it means, if a tweet or a Facebook post violates these news guidelines, the umbrella protection under Section 79 will not be available to these social media platforms. Big tech giants like Facebook Inc., Alphabet Inc. or Twitter claim that they are mere platforms where people meet and interact freely.

As these jurisdictions protect internet companies from liability, the government is forced to revisit these laws which are unable to hold social media platforms of their responsibility in the face of menacing and indiscreet use of free speech by the users. With provisions of withdrawing legal immunity to internet companies, the battle lines have been drawn between Big Tech giants and the Indian government. Twitter doesn't subscribe to new provisions and says these norms would stifle free speech.

8.3 Stringent Rules for Removal of Content

New rules stipulate categories of objectionable contents that the service providers should not host. The updated Rules seeks to remove objectionable content within stipulated timelines of 24/36/72 hours. Intermediaries are bound to remove content within 24 and 36 hours when asked through court order or by a government agency. Platforms are mandated to identify the source of objectionable/unlawful content within 72 hours of being asked by government agencies.

Furthermore, intermediaries asked to establish a grievance officer who should acknowledge a complaint within 15 days. The due diligence warrants intermediaries to appoint a Chief

Compliance Officer posted in India, liable for the failure of these rules. Besides, there must be a nodal contact person for 24x7 coordination with law enforcement agencies in the country. Intermediaries should also publish monthly compliance reports, as rules seek to address complaints regarding non-responsiveness and bias on the part of these platforms. Big tech companies and intermediaries need to set up an office for physical contact addresses in India.

8.4 Tracing out Originator: Major Bone of Contention

The Rules stipulate social media platforms to *divulge details of the “originator” of objectionable content* as and when asked by the government or courts under Rule 4(2) of Section 69A of the IT Act. This provision allows law enforcement agencies to break into end-to-end encryption to retrieve data or information of the sender the purported message originated from.

On the issue of traceability, the government explained that for prevention of an offence related to the security of India, or public order or in relation with rape, sexually explicit material, it is incumbent on the part of a messaging platform to enable identification of the first originator of an unlawful message. The government has been asking messaging platforms such as WhatsApp to allow traceability for long to rein in cases of deaths due to mob-lynching in which messages were allegedly spread to mobilise the crowd. But WhatsApp has denied these requests on the ground of end-to-end encryption contracts with users.

However, the requirement of tracing out of originator of information comes into a direct conflict with the right to privacy norms that can break existing protocols of protecting users' end-to-end encryption by platforms such as WhatsApp, Telegram and Signal that ensures the safety of users' messages remain intact.

The messaging giant, WhatsApp, which has nearly 40 crore users in India, argues the rules require services to trace every single message since there's no telling which messages a government would want to investigate in the future. “In doing so, a government that chooses to mandate traceability is effectively mandating a new form of mass surveillance,” WhatsApp wrote in a blogpost¹⁸. Consequently, WhatsApp moved the Delhi High Court challenging the “traceability clause” of the Rules, 2021 as unconstitutional. In its plea before the Court, WhatsApp says that the new rules violate the fundamental right to privacy and right to freedom of speech and expression and highlighted the 2017 judgement of Supreme Court in K S Puttaswamy case¹⁹ in which it was held that the right to privacy is a fundamental right.

8.5 Digital News Media and OTT Rules: Overreaching Impact

In a most significant move, the government has decided to regulate online news media and video streaming entertainment platforms OTT (over the top media service) and introduced the Code of Ethics for both streams. It mandates digital news platforms to follow a set of codes of conduct envisaged in the Cable Television Networks Regulation Act and Norms

of Journalistic Conduct of the Press Council of India, which broadly guide the content put out in TV and print media.

The new development expanded the scope of regulation under the IT Act of, 2000 which was previously not regulated under this Act. While the government has emphasised self-regulation as the way forward, the rules entail a three-tier framework for regulation. Powers delegated to a non-judiciary adjudicatory body and an oversight committee which includes an inter-departmental committee to look into grievances arising out of the undesirable content on these platforms.

Several digital news websites/platforms such as The Wire, Quint Digital Media, LiveLaw, The News Minute and the Foundation for Independent Journalism approached High Courts across the country over the government's attempt to regulate digital media news media. The petitions claimed that the new rules seek to regulate these platforms by imposing vaguely worded "Code of Conduct".

Most importantly, the Code of Ethics also requires video streaming platforms to "exercise due caution and discretion" as India is a multi-religious and multi-racial country. Featuring contents based on beliefs, practices, or views of any religious or racial groups are very sensitive and discretion must be exercised keeping their sentiments in focus. These provisions come into heavy criticism as stakeholders' fear increased bureaucratic censorships and stifling of artistic freedom of OTT content.

Recently, India has witnessed a spate of court cases on the issue of regulation of OTT content. The grievances range from wounded cultural and religious sentiments to moral outrage against depictions of sexuality. Petitions seeking strict regulation for OTT platforms conforming to so-called social, cultural and religious values curtailing artistic expression and viewer choice on the rise across the country. In this background, the government got an opportunity to put in place a censorship mechanism that was otherwise free from such monitoring and control.

9. CONCLUSIONS

The Information Technology Rules, 2021 is focused on the role of social media intermediaries and the reach of Big Tech companies, privacy and national security concerns. The government's aim to impose accountability on social media to tackle fake news, hatred, and unlawful content and to control undesirable and objectionable content from digital news media and video streaming platforms was imminent in the face of challenges the new-age media posing. The new guidelines are in a response to the growing realisation of the immense power wielded by internet companies and the governance realised that public spheres cannot be left in the hands of a few big techie firms such as Twitter, Facebook (also owns WhatsApp and Instagram) and Alphabet Inc (owner of Google and YouTube).

The changes in the IT Act, 2000 may seem well-intentioned and desirable, however, these rules and guidelines will have far-reaching consequences on free speech, privacy and access to online information because of the legal overreach of some of the stringent provisions by clubbing digital news media and OTT platforms with social media.

Combating online disinformation is a gigantic problem as government regulations and steps taken by internet companies are not adequate. Regulatory mechanism tends to focus on content rather than addressing deeper structural obstacles that make it easy in disseminating false and misleading information. To address these issues, the government should have taken the legislative route to bring out such drastic provisions which may violate the right to privacy and free speech. The new IT Rules is a piece of subordinate legislation of the IT Act, 2000. No new law was enacted even after there is a dire need for such legislation.

The IT Act, 2000, does not have provisions to regulate digital media which makes these new Rules *ultra vires* to the parent IT Act as well as the Constitution of India, according to legal experts. There are indeed many substantive legal issues with the new rules which are vague, disproportionate and probably unnecessary. The rules only make attempts at balancing privacy versus national security. It gives primacy to security aspects over both civil liberty and economic interests.

What is the solution? India needs a broad legislative regulatory framework passed by Parliament and debated in the public domain with stakeholders. It's important, that the legislative process must identify the harms to civil rights and understanding technical aspects and impacts on the public sphere. However, in the interregnum, it looks that the courts are the only recourse to enforce constitutional rights and interpretation of vague provisions of the new regulatory regime.

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Prof (Dr) Tabrez Ahmad, Vice-Chancellor and Dean, School of Law of G.D. Goenka University, Gurugram, Haryana. His interest area is in the fields of cyber law, intellectual property rights, and commercial law. The current research paper is the product of his overall guidance and supervision.