



## Censorship Regime in India

**For Prelims:** Central Bureau of Film Certification, Indian Penal Code

**For Mains:** Censorship Regime in India and current related provisions in India, Government Policies & Interventions, Issues Arising Out of Design & Implementation of Policies

### What do we mean by Censorship?

#### ▪ About:

- Censorship is **proclaimed to be a tool that is placed to keep a fair check on what comes into the public domain** and how this information or data fulfills certain commonly acceptable standards to maintain harmony, peace and social order.
- The term '**censorship**' in Indian law has often led to a **fire and ice type debate** amongst laymen, politicians, thinkers, organizations and various other groups.
- However, **censorship has connotations, grounds of operation, and room for interpretation** that goes much beyond this commonly assumed understanding and is subjective in its application and observation. This makes censorship legislation prone to misuse.
- Particularly in India, **censorship laws take everything that comes in public domain** - advertisements, theatre, films, series, music, speeches, reports, debates, magazines, newspapers, plays, any form of art, dance, literature, written, documentary or oral works - in their sweep.
- Thus, there have been **several instances when speeches and other forms of public expression have been removed from the public domain** on account of being outrageous, indecent, against morality, public order or for hurting religious sentiments - parameters which have no specific definitions or proper contours.
- Such instances seem to be growing in their ambition, ambit, and number and are seen as a major threat to freedom of speech and expression.

#### ▪ Working in India:

- Censorship process is **done by the concerned authority or a designated body**.
- Censorship is exercised in India directly and indirectly via different legislations and authorities, in different domains like [Indian Penal Code](#), **Code of Criminal Procedure**, Central Board of Film Certification, Press Council of India, Cinematograph Act, 1952, Cable Television Act etc.

### How does Censorship Work in India?

#### ▪ Code of Criminal Procedure (Cr.P.C):

- Section 95 of the Cr.P.C allows forfeiture of certain content/ publications.
  - It is **punishable by the State Government** via an official notification under this section if any newspaper, book, or document, wherever printed, contains any matter that the State Government considers harmful to the state.
- This would **allow a magistrate to issue warrants** to search for '**objectionable**' publications.

- **CBFC:**
  - The **Central Bureau of Film Certification (CBFC)** is a statutory body operational under **the Cinematography Act, 1952**.
  - It regulates the content of films that are brought into the public domain.
  - The **CBFC follows a system of prior certification of films** and the broadcasters are bound by the guidelines under the '**Programme Code and Advertisement Code**' to follow the certification provided.
  - It provides for categorization in the following four categories i.e.
    - 'U'- connotes the category of unrestricted exhibition.
    - 'UA'- connotes category of unrestricted exhibition except children below the age group of 12 years of age.
    - 'A'- connotes the category of exhibition permitted and restricted to adults.
    - 'S'- connotes the category of films restricted to specified class of people only.
- **Press Council of India:**
  - It is a **statutory and quasi-judicial body** which was established under the Press Council Act, 1978.
  - It **acts as the self-regulatory body** for the press and regulates what comes to the media domain.
  - This **body emphasizes the need for media persons and journalists to self-regulate**, and acts as a watchdog for media content at large to assess if it goes against press ethics and the public interest.
- **The Cable Television Networks Act:**
  - This act also **filters the kind of content that can be broadcasted**.
  - For keeping a track over cable operators, the act mandates a compulsory registration for cable operators.
  - It also **lays down provisions to regulate content to be broadcasted** by the cable operator, following this it mandates the certification of film by CBFC under the category-'U' (i.e. Unrestricted-public-exhibition) before it is transmitted or broadcasted via cable television irrespective of the film being produced in India or abroad.
  - This Act confers **ample power to the government to ban cable operators**, channels or certain programs that violate the given program code or guidelines as prescribed by the rules made under the act- 'Cable Television Networks Rules'.
- **Social Media Platforms and the New IT Rules, 2021:**
  - Given the significant rate of growth of social media, **its censorship has been a growing point of concern in India** as till recent times, it was not under the direct supervision of any government authority or direct and specific regulation thus far.
  - At present, **the Information and Technology Act, 2000 regulates social media usage**, and Sections 67A, 67B, 67C and 69A, in particular, include the specific regulatory clauses.
- **IT (Intermediary Guidelines & Digital Media Ethics Code) Rules, 2021:**
  - These were **preceded by the amendments to the 'Allocation of Business Rules'** under the IT Act, 2000 to bring films, audio-visual programmes, news, current affairs content, and digital and online media including OTT (Over The Top) platforms like Amazon, Netflix, and Hotstar under the purview of Ministry of Information & Broadcasting (I&B), Government of India.
  - The IT (Intermediary Guidelines & Digital Media Ethics Code) Rules, 2021 put in place after this amendment include new compliance and redressal mechanisms for social Media, OTT, digital news and even messaging apps (like WhatsApp and Viber).

## What are the Pros and Cons of Censorship?

- **Pros:**
  - **Censorship Prevents Disharmony:**
    - Censorship prevents disharmony in society by prevention of disclosure of objectionable content that can lead to communal discord
  - **Preserves the Security of the State:**
    - The censorship of the internet can **help to protect social stability and national safety**.
    - Since internet censorship can **help to curb the large number of illegal**

**activities** and internet crimes, it is good for the stability of society.

- **Some illegal organizations or people may release black information** which will disturb the national economy and polity.
- The terrorists and extremists may **release false information to distort facts, confuse the public people's mind** and create fear and panic thorough internet.
- **Maintains Morality in the Society:**
  - Censorship can help in maintaining morality in society.
- **Prohibits the Spread of False Beliefs or Rumours:**
  - Government can use the Censorship for prohibiting the spread of false beliefs or rumours and can also be used **to curb access to Harmful Activities** by preventing their public display and others.
  - The censorship of internet can **filter the inappropriate information online and protect children from disturbing websites**, such as, child pornography, sexual violence and detailed instructions in crime or drug use.
- **Cons:**
  - **Tool for Moral Policing:**
    - The practical application of the censorship legislation can **end up becoming a tool of moral policing** that controls other people's lives rather than concerning itself with larger public issues.
    - The **wide-ranging powers given to the regulatory body** under the new rules, which is composed of bureaucrats, also runs the risk of discretionary political control.
  - **Against the Constitutional Mandate of Free Speech:**
    - The circumferences of morality, taste, and distaste differ widely in India.
    - Hence, this level of intense censorship is far off-course from the constitutional mandate of free speech and expression as guaranteed to all Indian citizens (subject to certain reasonable restrictions).

## Way Forward

- **Balanced Law is the Need of the hour:**
  - Censorship laws cannot be overly sensitive and **should balance the equation between maintaining objective standards of broadcasting** and information dissemination on the one hand and maintaining the fluidity of art, expression, free speech and expressional creativity on the other.
- **National Security must be Defined and Latitude allowed for Opinions:**
  - There must be **clear rules that require authorities to demonstrate a genuine threat to national security**. This is especially important in the case of terrorism-related legislation, where there is often limited transparency during the drafting of new powers.
- **A Degree of Self-Regulation is Necessary:**
  - In an open society, any system of information control will depend upon a degree of self-regulation, even if overseen by the state. The alternatives are impractical and ideologically unacceptable.
- **Proactive Approach:**
  - The handling of cases should be proactive in terms of notification and documentation.
  - The **current system of accountability works only when the desires of local and national media organisations overlap** with the needs of a democratic society, which cannot be guaranteed.