



Objections to New IT Rules

Why in News

The latest norms for **social media intermediaries** in the [New IT Rules 2021](#) have drawn objections from privacy experts and lawyers.

- The [Supreme Court](#) (SC) had in 2015 struck down [Section 66A](#) of the Information Technology Act finding it contrary to both **Articles 19** (free speech) and **Article 21** (right to life) of the Constitution.

Key Points

▪ Suspecting Everyone:

- Asking 'significant social media intermediaries' to have **automated tools to proactively track certain words** is akin to **“active hunting”**, and will **“make suspects out of people”**.
 - **For example:** For track words like **interfaith marriage or love jihad**, its like criminalising an entire population **as most of the people must be using these words in their normal discussions**. This way, an entire citizenry is being made a suspect.

▪ Against Right to Privacy:

- According to the New IT Rules of 2021, significant social media intermediaries providing services primarily in the nature of messaging shall enable identification of the first originator of the information.
 - This provision would **end up weakening overall security, harm privacy and contradict the principles of data minimisation** endorsed in the IT Ministry's [Draft Data Protection Bill 2019](#).
 - Identification of the first originator will **require end to end encryption to be broken**, thereby compromising the fundamental technology on which most apps are based on.
 - Moreover, owing to the volume of data, encryption has become more important now as more personal data is being aggregated and analysed at a scale that was never possible before.

Data Minimisation

- Data Minimisation is a principle that states that **data collected and processed should not be held or further used unless this is essential for reasons that were clearly stated in advance** to support data privacy.
- It will **“undermine the principles of open and accessible internet** and the **fundamental right of privacy** enshrined in the Constitution, particularly in the **absence of robust data**

protection law.

- **For Example:**

- It contains a provision **requiring significant intermediaries to provide the option for users to voluntarily verify their identities.**
- This would likely entail users **sharing phone numbers or sending photos of government issued IDs to the companies.**
- This provision will **incentivize the collection of sensitive personal data** that are submitted for this verification, which can then be also used to profile and target users

- **Right to Privacy:**

- The **SC** described privacy and its importance in the landmark decision of **[K.S. Puttaswamy v. Union of India in 2017](#)** as a **fundamental and inalienable right** and attaches to the person covering all information about that person and the choices that he/ she makes.
- The **right to privacy** is protected as an intrinsic part of the right to life and personal liberty under **[Article 21](#)** and as a part of the freedoms guaranteed by Part III of the Constitution.

- **Against Freedom of Expression:**

- Automated forms of censorship and surveillance could **disproportionately impact users' freedom of speech and expression**, suppressing creativity.
- **[Article 19](#)(1)(a)** of the Indian constitution guarantees the **freedom of speech and expression.**

- **Over Censorship:**

- The new rules provide stricter and wide-ranging obligations on intermediaries for **proactive monitoring of content.**
- The **fear of legal liability** or action could **lead to over-censorship of content.**

- **Lack of Accountability and Transparency:**

- The news rules require social media to “deploy technology-based measures, including **automated tools ([Artificial Intelligence \(AI\)](#)) to filter out objectionable content** like child sexual abuse.
- However, as history has shown, **such tools not only suffer from major accuracy problems but also can lead to function creep.**
 - Earlier in 2020 an AI-powered tool **Genderify** designed to identify a person's gender by analyzing their name, username or email address was shut down just a week after launch after it was blamed to be **biased.**
- **Coding biases** in the development of **AI** often **lead to discrimination, inaccuracies, and a lack of accountability and transparency.**

- **Gag on Online News Media:**

- The rules open the way for **increased scrutiny as well as increased costs of compliance and may lead to gagging** of free and unhindered news reporting.

[Source:IE](#)

