

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

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MISINFORMATION AND HATE SPEECH: THE CHALLENGE OF REGULATING SOCIAL MEDIA IN INDIA

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ABSTRACT

The rapid development of social media has created business, connectivity and development in various sectors and also posed a menace of cybercrime and created challenges in managing hate speech and misinformation while preserving internet freedom. This study examines how misinformation and hate speech harm innocent lives and explores how platforms can address harmful content without undermining free expression or disproportionately affecting marginalized communities in a diverse, multilingual nation. It examines how intermediary liability regulations, including India's 'Information Technology Act (2000)', the 2021 'Intermediary Guidelines', and related legislation, influence the way platforms moderate online content.

The methodology is based on qualitative research, using case studies and real-world examples. The study employs a comparative legal approach, evaluating India's intermediary liability system against international models like the EU's 'Digital Services Act' and 'Section 230 of the US Communications Decency Act,' to identify both the advantages and potential pitfalls of different regulatory approaches.

Case studies of platforms like X, WhatsApp, YouTube and Facebook analyze content moderation policies, particularly their implementation in regional languages and culturally sensitive contexts. Real incidents, such as misinformation-driven violence in Nagpur (2025) and the imprisonment of Harish Banger (2021), highlight the real-life consequences of harmful online content.

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The study focuses on the need for inspected governance by demonstrating how unconfirmed digital information may grow into real social harm. Using comparative insights from other models, the paper analyses India's robust regulatory framework and highlights the hazards of excessive content suppression while promoting nuanced, context-sensitive moderation techniques. Ultimately, it proposes cooperative governance models that engage tech companies, policymakers, and civil society to maintain expressive freedoms while effectively containing online harms.

This paper comprises global conversations on platform oversight by grounding its analysis in India's socio-political environment and providing workable ideas to protect democracy and individual rights in a variety of digital ecosystems.

KEYWORDS: Misinformation, Hate Speech, Free Speech, Intermediary Liability, Social Harm

INTRODUCTION

The usage of the Internet has increased because data packages are now more affordable than they were before 2016, more people are using the internet. The internet connectivity is even available in the remote areas of the country. The Ministry of Communications claims that the government has implemented a number of measures under the Digital India Initiative to link not just major cities but also “tier-2 and tier-3 cities, as well as rural and isolated locations.” India has 398.35 million rural internet customers, out of a total of “954.40 million Internet users.” Additionally, according to Registrar General of India village data, 6,12,952 of the 6,44,131 villages in the nation had 3G/4G mobile coverage as of April 2024. As a result, 95.15% of communities have Internet connectivity.¹ Along with the usage of the internet, cybercrime has also drastically increased, such as cyberfraud, deepfakes, hacking, phishing, identity theft, ransomware, and significant concerns, including hate speech and misinformation spreading like a pandemic. The most alarming is the hate rhetoric. Over a two-year period, hate speech and related acts that incite rancor people increased by 45% in India, according to data from the National Crime Records Bureau (NCRB). The NCRB report for 2022 in particular shows a marked increase in these types of infractions.²

¹ Press Release, Press Info. Bureau, Gov't of India, Universal Connectivity and Digital India Initiatives Reaching to All Areas, Including Tier-2/3 Cities and Villages (July 12, 2024), <https://www.pib.gov.in/Pressreleaseshare.aspx?PRID=2040566>.

² Nat'l Crime Records Bureau, Crime in India - 2022, Open Gov't Data (OGD) Platform India, <https://www.data.gov.in/catalog/crime-india-2022> (last visited July 15, 2025)

According to the United Nations Development Programme (UNDP), false information is categorized into four distinct types: “Disinformation is deliberately fabricated false information intended to cause harm; Misinformation is also false but is shared without malicious intent; Mal-information involves genuine information that is manipulated to inflict harm; and Hate Speech is any communication that attacks or uses discriminatory language against a person or group based on their identity, often inciting intolerance, hatred, or violence.”³

According to the United Nations (UN), “hate speech, misinformation, and other challenges to the information ecosystem are hurting public health and climate action, increasing conflict, and threatening democracy and human rights. They are presently spreading more quickly because of the rapid development of publicly available Artificial Intelligence (AI) technology, which increases the vulnerability of children and other groups that are often targeted in digital areas.” The United Global Principles for Information Integrity, which were published on June 24, 2024, urged for swift action to stop hate speech, false information, and disinformation.⁴ “At a time when billions of people are exposed to false narratives, distortions and lies, these principles lay out a clear path forward, firmly rooted in human rights, including the rights to freedom of expression and opinion.”⁵ The UN Secretary General said, “The world must respond to the harm caused by the spread of online hate and lies while robustly upholding human rights.” He also made a strong call on all governments, internet firms, advertising, and public relations sectors to take accountability for the dissemination and commercialization of harmful content.

The Internet has many uses, just like a coin. It can be used for good or bad, legal or illegal, and some people use it for trade, education, and awareness. However, people are more likely to misuse online platforms, where fake news and misinformation can easily manipulate the general public.

MISINFORMATION

Misinformation, fake news, or false news on online is a very rapidly spreading disease; every day, people experience themselves, are deceived by the unknown, and become victims of

³ U.N. Dev. Programme, Rise Above <https://www.undp.org/eurasia/dis/misinformation> (last visited July 15, 2025).

⁴ Press Release, U.N. Sustainable Dev. Grp., UN Recommendations (June 24, 2024), <https://www.un.org/sustainabledevelopment/blog/2024/06/global-principles-information-integrity-launch/>.

⁵ *Id.*

misinformation. We cannot neglect that misinformation as a simple problem, but it is not, it is a serious hazard, and prominent bodies such as the United Nations Organisation (UNO) are also deeply concerned about the problem.

Misinformation may cause strife between groups or inside groups and nations, as well as disorder in society and the state. As per the UN Report, under the heading of "Promotion and Protection of Human Rights," "Human Rights Questions," which includes many methods for enhancing the efficient enjoyment of fundamental freedoms and human rights, 76/227 resolution, "Countering disinformation for the Promotion and protection of human rights and fundamental freedoms. In it, the Secretary-General describes the challenges posed by disinformation and the responses to it, sets out the relevant international legal framework and discusses measures that States and technology enterprises reported to have taken to counter disinformation. The Secretary-General notes that countering the different manifestations of disinformation requires addressing underlying societal tensions, fostering respect for human rights, online and offline, and supporting a plural civic space and media landscape."⁶ Due to misinformation, many people are facing serious concerns in their lives. Below are some real-life case studies where victims faced severe consequences due to misinformation.

CASE STUDIES: REAL-WORLD CONSEQUENCES OF MISINFORMATION

HARISH BANGERA'S ORDEAL

The punishment of blasphemy is the death penalty in many Islamic nations, including Saudi Arabia. Harish Bangera, a 34-year-old air-conditioning technician from Beejady village near Kundapur in Udupi district, Karnataka, India. Bangera was arrested in Saudi Arabia in December 2019 on charges of blasphemy for allegedly posting derogatory content on Facebook about Mecca and the Saudi Crown Prince. Harish Bangera, who went for employment purpose to Dammam, Saudi Arabia, in 2014, was accused of posting blasphemous content on social media, including a post captioned, "Next Ram Temple in Mecca. Be ready for a fight," accompanied by an image of the Kaaba in Mecca. The post went viral, leading to his arrest by Saudi authorities within hours. His employer, Gulf Carton Factory, terminated his contract immediately, condemning the act and reporting it to the police, the Ministry of Labour, and Saudi authorities. Bangera's wife, filed a complaint with the Udupi police, suspecting a

⁶G.A. Res. 76/123, at 5 (Dec. 9, 2021) (on information integrity), available at <https://documents.un.org/doc/undoc/gen/n21/416/87/pdf/n2141687.pdf>.

conspiracy. She claimed the Facebook account responsible for the posts was fake. An investigation by the Karnataka Police revealed that the blasphemous post was shared from a fake Facebook account created on December 20, 2019, a day before the post was uploaded. Bangera's original account, which he used for family and personal posts, had been deactivated after he shared and deleted a video related to the Mangaluru riots in December 2019. In October 2020, Udupi police arrested two persons for creating a fake account and posting blasphemous content. The police traced the phone used to create the account, and the two persons admitted to impersonating Bangera. The charges were cleared and Harish Bangera was released after nearly two years in prison, due to the efforts of his family, the Karnataka Police, the Indian Embassy, and various organizations. The case revealed the dangers of fake social media accounts and the severe repercussions of blasphemy laws in Saudi Arabia. The investigation findings were shared with Saudi authorities through the Indian Embassy, with support from organizations like the Mangaluru Association Saudi Arabia (MASA), Indian Overseas Forum, and individuals, including public servants and representatives.⁷

The law enforcement authorities tackled this and proved the case very successfully, but the question is, what if they had failed? Due to the fake account, the Bangera may be punished with the death penalty. One fake account disrupts his life and family, and he almost spent 2 years in jail for not even committing a crime.

NAGPUR RIOTS (2025)

Rumors that a cloth (chadar) containing Quranic verses was burned in a protest by Hindu organizations led to severe rioting in Nagpur, Maharashtra, on March 17, 2025. False reports that a fabric containing passages from the Quran or a copy of the Quran was burnt were extensively circulated, especially on social media. Large-scale protests resulted from the Muslim community's displeasure over these rumors. Mobs vandalized public property, set cars on fire, and threw stones. In addition to explosions from burning cars in Chitnis Park to the Shukrawari Talao neighborhood, more than 30 people including 33 police officers were hurt. The Nagpur Police and the Maharashtra Chief Minister denied the rumors, clarifying that no fabric with Quranic texts was set on fire. The burning object was an effigy of Aurangzeb, not a religious book, according to an initial investigation. After investigating more than 140 social

⁷Man Facing Blasphemy Charge, The Hindu (May 17, 2016), <https://www.thehindu.com/news/cities/Mangalore/kundapur-man-facing-blasphemy-charge-in-saudi-arabia-returns-home/article61428502.ece>.

media accounts that disseminated the false material, the Maharashtra Police Cyber Cell found that some of them were utilizing manipulated or outdated footage to incite violence. Chief Minister called the violence a "planned incident by certain people" and promised tough punishment for anyone who incite unrest and propagate false information.⁸

CAA PROTESTS (2019-2020)

Widespread false information that the Citizenship Amendment Act (CAA) will deprive Indian Muslims of their citizenship caused a great deal of controversy, protests, and rioting when it was passed by Parliament and enacted in India on December 11, 2019. Despite being untrue, this myth stoked discontent nationwide, especially in 2019–2020. Persecuted non-Muslim refugees who fled from Afghanistan, Bangladesh, and Pakistan arrived in India are eligible to receive citizenship under the CAA's amendment of the Citizenship Act of 1955. A common misconception surfaced that the proposed National Register of Citizens (NRC) and the CAA will single out Indian Muslims, deny them citizenship, and result in their arrest or deportation. Due to this protest occurring and leading to violent riots, the most significant violence occurred in Northeast Delhi (February 23–26, 2020), resulting in 53 deaths, over 200 injuries, and widespread property damage.⁹ Consequently, more than 327 persons were detained, and almost 327 First Information Reports (FIRs) have been lodged, linked to the the CAA Riots.¹⁰

A ROADRAGE INCIDENT FALSELY PORTRAYED AS A LANGUAGE CONFLICT

A fight between two individuals in Bengaluru was falsely portrayed as a language conflict. A Wing Commander of the Indian Air Force posted a video on social media, alleging a group of people assaulted him due to language differences, and he sought public support to get justice. Social media quickly became a hotspot for the topic; even national media outlets reported on it without proper verification. Everyone blamed the food delivery person involved in the incident, and Bengaluru Police arrested him.

However, the situation changed when the accused person released a video along with CCTV footage showing that the Indian Air Force (IAF) Wing Commander brutally attacked him. He

⁸ No Quranic Verse on the Cloth Burnt During Protest in Nagpur: Fadnavis, Hindustan Times (Sept. 4, 2023), <https://www.hindustantimes.com/cities/mumbai-news/no-quranic-verse-on-the-cloth-burnt-during-protest-in-nagpur-fadnavis-101742411107427.html>.

⁹ Delhi Riots 2020, Frontline, <https://frontline.thehindu.com/society/delhi-riots-2020> (last visited July 15, 2025).

¹⁰ *Anti-CAA Protests: 1,113 Arrests, 5,558 Preventive Detentions, 19 Dead in UP - The Hindu*, <https://www.thehindu.com/news/national/anti-cao-protests-1113-arrests-5558-preventive-detentions-19-dead-in-up/article30402858.ece> (last visited Nov. 11, 2025).

claimed the allegations were baseless and stated that he knew five languages. Following this revelation, a case was registered against the Wing Commander, and even the Chief Minister of Karnataka condemned his actions.¹¹

HATE SPEECH

"We must confront bigotry by working to tackle the hate that spreads like wildfire across the internet."

- "ANTÓNIO GUTERRES, United Nations Secretary-General, 2023"

Every individual has the fundamental right to free speech and expression. In the interests of India's sovereignty and integrity, security of the state, public order, decency or morality, friendly relations with foreign states, contempt of court, defamation, and incitement to an offense, the Indian constitution places "reasonable restrictions"¹² on the freedom of speech and expression (Article 19(1) (a)), but it also stipulates that the speech must not cause harm to others. The Supreme Court of India undertook a structured analysis in the case of *Amish Devgan v. Union of India & Ors.*¹³ and conducted a comprehensive examination of hate speech jurisprudence in liberal democratic nations, including the USA, the UK, and Canada. It differentiated the fundamental right guaranteed under Article 19 (1)(a), right to freedom of speech, from the other substantive penal provisions that criminalise hate speech within the Indian legal framework. Finally, the Apex Court concluded that a single, universal definition of hate speech cannot be formulated. But relied upon its precedents to re-examine the meaning of the term 'hate speech'. However, it carefully acknowledged the inherent legal complexity, remarking that "it remains difficult in law to draw the utmost bounds of freedom of speech and expression." The Court highlighted the challenge of defining the limit beyond which this fundamental right would violate other democratic values and public law considerations to such a degree that it constitutes a criminal offence.¹⁴

In its '267th Report,' the Law Commission of India established the definition of hate speech as "an incitement to hatred primarily against a group of persons defined in terms of race, ethnicity, gender, sexual orientation, religious belief and the like." It is a major threat to society because

¹¹ 'I Might Lose Job but Won't Let This Go' Times India (Apr. 24, 2025), <https://timesofindia.indiatimes.com/city/bengaluru/i-might-lose-job-but-wont-let-this-go-biker-releases-video-after-clash-with-iaf-officer-in-bengaluru/articleshow/120535090.cms>.

¹² Const. of India art. 19, § 2

¹³ (2020) SCC Online SC 994.

¹⁴ Arpita Shukla & Avani Malhotra, *AMISH DEVGAN V. UNION OF INDIA & ORS.*, (2020) SCC ONLINE SC 994, 2.

it violates human rights, fuels violence between groups, and threatens the rule of law and democratic unity.¹⁵ The main cause of stress and an issue is the misuse of social media and the press to disseminate hate speech. In these situations, the media fueled lies, stoked animosity, and encouraged violence against others. One of the first examples of hate propaganda in the contemporary era was the Nazi regime's exploitation of the media. In a broader sense, liberal, pluralist democracy requires that freedom of expression be reinterpreted in terms of equality and tolerance for difference.¹⁶

Indian laws lack an accurate definition of it, but they do restrict and outlaw specific types of communication. The spirit of Section 153A of the '*Indian Penal Code, 1860*' (IPC) is retained in Section 196 of the '*Bharatiya Nyaya Sanhita, 2023*' (BNS), which addresses "the crime of inciting animosity amongst various groups based on factors like religion, race, place of birth, domicile, language, etc." Section 353 of the BNS addresses the offence of making, publishing, or circulating false information with dishonest intent to cause public mischief, incite offences, or promote enmity between groups.

JUDICIAL RESPONSES

The Courts also act very seriously on hate speech cases, and the courts warn the lawmakers who make such statements and, in the same cases, criticise the state for not acting promptly in such crimes. During the Shaheen Abdullah v. Union of India hearing, Supreme Court Justice KM Joseph expressed his distress, saying, "The state is helpless and impotent; it fails to take prompt action." If the state is keeping quiet, why do we have one at all?¹⁷ Hate speech is strictly prohibited by law, and the courts take the issue extremely seriously. In numerous times the courts are very seriously remarked about the issue in the case of Arnab Ranjan Goswami,¹⁸ Hate speech functions as a "sort of slow-acting poison, accumulating here and there, word by word, so that eventually it becomes harder and less natural for even the good-hearted members of the society to play their part in maintaining this public good" (of inclusivity), according to US law professor Jeremy Waldron in his article. The Nazi dehumanization of Jews through persistent hate speech and propaganda was the most extreme example of this, and as a result,

¹⁵ Law Comm'n of India, Twenty-First Law Commission, https://lawcommissionofindia.nic.in/report_twentyfirst/ (last visited July 15, 2025)

¹⁶ Vikram Raghavan, *Freedom of the Press and the Human Rights Discourse: Managing the Tensions*, in Human Rights, Justice, and Constitutional Empowerment 78 (C. Raj Kumar & K. Chockalingam eds., 2d ed. 2017).

¹⁷ Tehseen S. Poonawalla v. Union of India, (2023) 5 S.C.C. 123, 135 (India)

¹⁸Shakir Ali v. State of Maharashtra, 2020 S.C.C. OnLine Bom 732 (India)

the majority of Germans who were not Jewish were complicit in the mass murder of Jews.¹⁹

POLITICAL HATE SPEECH AND COMMUNAL INCITEMENT

Lawmakers are protected under articles 105 and 194 of the Indian Constitution for their speech in the parliament or state assemblies, which provides legislative immunity for them. Article 105 states that "no member of Parliament shall be liable for any proceedings in any court in respect of anything said or any vote given by him in Parliament." Article 194 also provides similar immunity to members of state legislative assemblies. However, this immunity does not extend to them outside the Parliament; the privileges end. Even the lawmakers often commit hate crimes in their speeches and incite hate in the people's minds. It has a greater impact of the hate speech by a lawmaker than that of a common person on social media. But some of the speeches disrupt society. In December 2012, a prominent member of legislative assembly (MLA) delivered speeches in Nirmal (Adilabad) and Nizamabad, Telangana, including the infamous "15-minute speech" where he claimed a particular community could "finish off larger communities" if police were removed for 15 minutes. He also mocked particular community deities, referring to the religious site near Charminar and denigrating particular community cremation practices. These speeches, uploaded to YouTube, went viral, sparking outrage. On April 13, 2022, the Special Sessions Court for MPs/MLAs in Hyderabad acquitted him in both cases, citing insufficient evidence. The prosecution presented only partial video clips, and witnesses did not conclusively indict him. The court cautioned him against making provocative speeches in the future, emphasizing national integrity.²⁰

Similarly, a State Minister from Tamilnadu, sparked controversy with remarks on the larger community during a conference in September 2023. At a Conference in Chennai, he compared one community to diseases like "malaria and dengue," stating it should not be opposed but "eradicated" due to its alleged Promotion of caste and social inequalities. He argued it was against social justice and equality.²¹ The Supreme Court, in March 2024, criticized his remarks as "against constitutional principles" during a hearing on his plea to club multiple FIRs. Justices

¹⁹Shadan Farasat, Hate Speech Is Not Free Speech, LiveLaw (Mar. 6, 2021), <https://www.livelaw.in/columns/hate-speech-is-not-free-speech-157378>

²⁰Hate Speeches: Court Lets off Akbaruddin, but Also Cautions, Times India (Apr. 30, 2022), <https://timesofindia.indiatimes.com/city/hyderabad/hate-speeches-court-lets-off-akbaruddin-but-also-cautions/articleshow/90831159.cms>

²¹Supreme Court Condemns TN Minister Udhayanidhi Stalin's Remarks on "Sanatana Dharma", LiveLaw (Mar. 4, 2024), <https://www.livelaw.in/top-stories/abuse-of-article-19-25-rights-supreme-court-expresses-displeasure-at-tn-minister-udhayanidhi-stalins-comments-on-sanatana-dharma-251150>

Sanjiv Khanna and Dipankar Datta questioned the propriety of a minister making such statements, noting they could incite communal disharmony.²² In February 2024, the Madras High Court refused to quash an FIR against Stalin, stating his remarks prima facie promoted enmity. Another MLA from Telangana delivered 22 dangerous speeches in 2024, as per India Hate Club report, including calls for violence against minority communities. In 2022, he was arrested for derogatory remarks about religious figures, sparking protests.²³

LEGISLATIVE GAPS AND PROPOSED REFORMS

According to the Ministry of Home Affairs, NCRB does not maintain data under the heading 'hate speech'.²⁴ The Hate Speech and Hate Crimes (Prevention) Bill, 2022,²⁵ introduced in the Rajya Sabha on 8th December 2023, aims to curb hate speech and hate crimes while upholding constitutional values of dignity, equality, and social harmony.²⁶

According to six severity factors—i.e., the social and political context; (ii) the offender's status; (iii) intent and audience; (iv) provocative content; (v) public reach; and (vi) likelihood of inciting action—the proposed bill would impose severe penalties for hate speech, including up to three years in prison, a fine, or both. Hate crimes can be tried in the Court of Session and are considered cognizable, non-bailable, and non-compoundable. The measure requires the government to provide yearly reports on hate speech and properly categorized hate crime cases, including convictions. Additionally, in cooperation with national human rights commissions, run public awareness campaigns through government representatives, educators, and educational programs. Special training for the law enforcement agencies to tackle hate crimes and training on prevention, investigation, and prosecution of hate crimes is also emphasized, alongside support for victims filing complaints.

²² *Udhayanidhi Stalin v. State of Maharashtra*, Cri. W.P. No. 1042 of 2024 (Bom. H.C. Mar. 4, 2024) (India), available at <https://indiankanoon.org/doc/16150831/>

²³ Meta Removes Facebook, Instagram Accounts Tied to BJP's Raja Singh for Hate Speech, *India Today* (Feb. 21, 2025), <https://www.indiatoday.in/india/telangana/story/meta-deletes-bjp-leader-rajasinghs-facebook-instagram-accounts-for-hate-speech-2683211-2025-02-21>

²⁴ Ministry of Home Aff., Gov't of India, Unstarred Question No. 4229: Cyber Crime (answered Mar. 20, 2023), available at <https://loksabhadocs.nic.in/>

²⁵ The Hate Speech and Hate Crimes (Prevention) Bill, 2022, Bill No. CIX of 2022, as introduced in Rajya Sabha, Dec. 8, 2023 (India), available at <https://sansad.in/getFile/BillsTexts/RSBillTexts/Asintroduced/hate-91222-E12142022113024AM.pdf>

²⁶ HT News Desk, Iran Warns of Fake Social Media Channels Targeting Its Bilateral Ties with India, *Hindustan Times* (July 12, 2025), <https://www.hindustantimes.com/india-news/iran-warns-of-fake-social-media-channels-targeting-its-bilateral-ties-with-india-101752312636091.html>

INTERMEDIARY LIABILITY AND PLATFORM ACCOUNTABILITY

An intermediary is an Internet service provider that provides a platform for the sale of goods or services, or any service associated with an electronic record or communication. This would include any web hosting company, online marketplace, online auction, payment website, and cybercafe. Telecom and network service companies are also included. Therefore, it would comprise payment gateways as well as information carriers (like Gmail). "Any person who on behalf of another person receives, stores, transmits that record or provides any service with respect to electronic record" is what the Section 2(1)(w) of IT Act, defines as an "intermediary." This includes "telecom service providers, internet service providers, web hosting service providers, search engines, online payment sites, online auction sites, online marketplaces, and cybercafes."

In India, Section 79 of the IT Act, 2000 specifically addresses the issue of intermediaries' duty. It states that "an intermediary is not liable for any third-party data, information, or communication link that they host or make available, with the exception of that which is stated in Sections 79(2) and (3) of the IT Act, 2000." According to explanation 2 of Section 79 of the IT Act of 2000, "third party information" refers to any information that an intermediary handles while operating in his role as an intermediary. They are not liable if its purpose is to give access only to a communication system where "data is transmitted or temporarily stored or hosted by a third party, according to Section 79(2) of the IT Act of 2000." Additionally, the clause states that an intermediary is not responsible if it does not start the transmissions, choose the receivers, or alter the contents in the transmitted message. If an intermediary complies with the Central Government's due diligence requirements, they are not responsible for information from third parties. Section 79(3) of the IT Act of 2000 specifies the conditions under which an intermediary is liable for third-party information.

Under the Information Technology Act of 2000, the Indian government introduced new requirements for intermediaries, known as the "Intermediary Guidelines and Digital Media Ethics Code Rules, 2021." Purpose of this regulation is to keep hate speech and misinformation from violating the law. Although the legislature has not changed these regulations, they were created in smothering of the previous "Information Technology (Intermediary Guidelines) Rules 2011 and in the exercise of authority under section 87(2) of the IT Act, 2000."

The 2021 Intermediary Guidelines, introduced significant changes compared to previous

regulations, primarily focusing on increasing the accountability of social media intermediaries and digital news publishers. These changes include establishing a grievance redressal mechanism, removing unlawful content within specified timeframes, and mandating greater diligence in content moderation.

The Guidelines require social media platforms and other intermediaries to implement a strong grievance redressal system, including the appointment of three key India-based officers: “a Chief Compliance Officer to ensure legal adherence, a Nodal Contact Person for round-the-clock coordination with law enforcement, and a Resident Grievance Officer to handle user complaints.”²⁷ Explicit content, such as nudity or altered photographs, must be removed from platforms within 24 hours, and there are rules that within 24 hours to acknowledge complaints and 15 days for disposal.²⁸ Intermediaries must publish monthly follow-up reports detailing complaints received and actions taken,²⁹ and messaging services will need to be enabled to identify the first originator of illegal content related to national security, sexual crimes, or other serious crimes.³⁰ Additionally, platforms must maintain a physical contact address in India.³¹ Failure to comply with these due diligence requirements may result in the loss of safe harbor protections under the IT Act.³²

In *Anuradha Bhasin case*,³³ the apex court decided that, “in accordance with Articles 19(1) (a) and 19(1)(g) of the Indian Constitution, the state must protect the right to engage in any trade, profession, or vocation online (The right to access the internet is also a basic right for a free citizen).” However, the proportionality test included in Articles 19(2) and (6) of the Constitution is the sole way to limit these basic rights. According to the verdict in *K.S. Puttaswamy vs. Union of India*,³⁴ “any state-imposed limits on the freedoms of speech and expression must pass the proportionality test, and a person's right to pursue any profession, trade, or business online is subject to reasonable constraints.”³⁵

²⁷Ministry of Info. & Broadcasting, Gov't of India, Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, <https://www.mib.gov.in/sites/default/files/IT%20Rules%2C%202021%20English.pdf> (last updated Oct. 28, 2022).

²⁸ *Id.* r. 3(1)(d)

²⁹ *Id.* r. 4(1)(d)

³⁰ *Id.* r. 4(2)

³¹ *Id.* r. 4(1)(b)

³²Information Technology Act, 2000, No. 21, Acts of Parliament, § 79(2)(c) (India)

³³*Shreya Singhal v. Union of India*, (2020) 3 S.C.C. 637 (India)

³⁴*K.S. Puttaswamy (Aadhaar-5 J.) v. Union of India*, (2017) 10 S.C.C. 1 (India)

³⁵ *Seema, Right to Internet: A Fundamental Right Under Constitution of India*, 3 Int'l J. Civ. L. & Legal Rsch. 45, 47 (2023)

The states of the major industrialized nations concur that the Internet supports democracy, freedom of information, assembly, association, and opinion and expression. The ideal way for individuals to express their thoughts and provide constructive criticism of the government's actions is through the internet platform. Private online platforms earn huge profits when they are raised, and their revenue is generated through advertising and subscriptions. However, it is their primary duty to control the misuse of it by users and protect other subscribers from it. As we discussed above, the publication of less-sourced information or misinformation by fake handlers causes danger to society. The same mistakes are made by big businesses like X, who give handlers formal position without first confirming their authenticity. A set of phony social media profiles that pose as official Iranian businesses were warned about by the Iranian Embassy in India on July 12, 2025, with the purported goal of sabotaging the diplomatic relationships between Iran and India. Indian citizens post against India's interests as a result of this treatment. Shockingly, some of the handles have a Blue Tick in X (a verification badge that indicates an account has been authenticated by X).³⁶ The Indian government released the 2021 Intermediary Guidelines to address this type of crime. These guidelines attempt to control online content providers, modernize the existing framework governing internet intermediaries, and set new due diligence norms on social media companies.³⁷

The Press Information Bureau (PIB) Fact Check Unit was created by the '*Ministry of Information and Broadcasting*' in November to combat fake news about government policies and actions. On March 20, 2024, it was notified the '*Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021*' (2021 Intermediary Guidelines). To find and dispel false information about the government, the PIB Fact Check Unit keeps an eye on social media posts and online news sources. Initially managed by information service officers, it functions according to the "Find, Assess, Create, and Target" (FACT) approach. To refute untrue statements, the unit publishes press releases, fact-checked reports, and explanations.³⁸

The following platforms are where the PIB Fact Check Unit is present and posts all fact-

³⁶ Iran Warns of Fake Social Media Channels Targeting Its Bilateral Ties with India, Hindustan Times (July 12, 2025), <https://www.hindustantimes.com/india-news/iran-warns-of-fake-social-media-channels-targeting-its-bilateral-ties-with-india-101752312636091.html>

³⁷ Chacko, M., Misra, A. & Mishra, S., Accountability, Liability and Intermediaries: A New Set of Rules in India, 63 J.B.L. 822 (2021), <https://doi.org/10.1365/s43439-021-00036-5>

³⁸ Press Release, Press Info. Bureau, Gov't of India (Mar. 20, 2024), <https://www.pib.gov.in/Pressreleaseshare.aspx?PRID=2015786>

checked content on platforms of Facebook, Instagram, Koo, Twitter, and Telegram³⁹

COMPARATIVE ANALYSIS: GLOBAL APPROACHES TO REGULATION

Different strategies have been implemented by numerous nations to control internet intermediary responsibility and stop dangerous material. In 1992, Australia was one of the first countries to enact laws pertaining to intermediary responsibility. In response to the 2019 Christchurch mosque shooting where the attacker live streamed the violence on Facebook, Australia enacted the Sharing of Abhorrent Violent Material Act, imposing stricter obligations on platforms to remove violent content.⁴⁰

Germany has taken a strong stand against hate speech, making it illegal to deny the Holocaust, use racial epithets, or spread extremist propaganda. With 2020 revisions adding further reporting requirements to law enforcement, its '*Network Enforcement Act*' (NetzDG) mandates that social media companies promptly delete unlawful information. Critics contend that because of the severe fines and short timeframes, these regulations can encourage excessive censorship. On the other hand, Section 230 of the '*Communications Decency Act*' in the United States offers a more permissive framework that allows platforms to filter objectionable information while generally shielding companies from liability for content produced by third parties. Sex trafficking, criminal legislation, and intellectual property violations—the latter of which is also subject to the '*Digital Millennium Copyright Act*' (DMCA)—are exempt. The E-Commerce Directive (2000/31/EC) of the European Union restricts liability protections to passive intermediaries, such as hosting and caching. Market restrictions or penalties of up to 6% of worldwide sales may follow noncompliance.⁴¹ These divergent approaches reflect ongoing tensions between curbing harmful content and preserving free expression, with no universally accepted solution.

CONCLUSION

The misinformation and hate speech causes grave threats to democracy, social harmony, and national security. Despite being a positive move, the present 2021 Intermediary Guidelines lack statutory support because they were created under the IT Act, 2000. A full fledged act on

³⁹ Press Info. Bureau Fact Check Unit, <https://factcheck.pib.gov.in/> (last visited July 15, 2025).

⁴⁰ Ash Johnson & Castro Daniel, How Other Countries Have Dealt with Intermediary Liability, Info. Tech. & Innovation Found. 15 (2021), <https://itif.org/publications/2021/02/22/how-other-countries-have-dealt-intermediary-liability/>

⁴¹ *Id*

misinformation and hate speech is an urgent need to combat this menace effectively and a separate law enforcement agency to prevent, investigate and prosecute these crimes. Given that a person with a smart phone can cause more damage than a terrorist with an AK-47, the legal framework must treat cyber-enabled offenses with the same seriousness as physical threats. India must adopt a zero-tolerance policy of strict regulation like Germany and the EU to curb the rise of cyber warfare and AI-driven disinformation while ensuring constitutional freedoms are not undermined.

As a sovereign nation, state has the authority to act on every crime that affects the sovereignty, integrity and public order of the nation. In the era of digitalisation the state should act retaining the control mechanism on a private entity. The legislature should implement significant changes to curb hate speech and misinformation. The state should strive to provide a multicultural and pluralistic atmosphere by properly enforcing the country's laws. The government's responsibility is to protect the individuals of this country from being the victim of any crime.

In conclusion, mere guidelines are insufficient; a comprehensive law with strict penalties, verified user identification, and specialized enforcement is the need of the hour. Only through decisive legislative action can India safeguard its digital ecosystem from the corrosive effects of misinformation and hate speech.

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