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A CRITICAL ANALYSIS OF LIABILITIES OF INTERMEDIARIES WITH REFERENCES TO INFORMATION TECHNOLOGY INTERMEDIARY RULES 2021

SHAKTHI JAYANTH S

LLM in Intellectual Property Law

Christ Deemed to be University

ABSTRACT

Online user-generated material and the quick spread of digital platforms have sparked intense legal discussions about the obligations of intermediaries. In the digital age, intermediaries have taken on a far larger role, influencing how people communicate, do business, and share content online. The multidimensional world of intermediaries' liabilities within the developing digital ecosystem is examined in this essay. It provides a thorough analysis of the duties that intermediaries assume in their capacity as hosts of user-generated material and online interactions. This study explores the development of intermediary liabilities within the framework of IT intermediary rules, concentrating on the dynamic interaction between free speech, content regulation, and online platform obligations. This paper is an analytical and descriptive work with primary and secondary data collected through various sources. The journey starts with a look at the early internet scene, which was characterized by a lack of liability protection to encourage creativity and freedom of expression. The idea of notice and takedown procedures evolved in an effort to balance user rights with content regulation as worries about dangerous and unlawful content increased. This study explores how intermediary obligations have changed via the lenses of several subtopics, such as the establishment of particular legal regimes, the difficulties associated with cross-border jurisdiction, and the moral implications of proactive content filtering. A shift towards making intermediaries more responsible for content produced by their users can be seen in the implementation of intermediary rules and regulations, which are typified by the Information Technology (Intermediary rules and Digital Media Ethics Code) Rules, 2021 in India. This essay analyses how these regulations will affect the digital ecosystem, outlining both their possible advantages and potential censorship issues. This study offers a global perspective on the various strategies for striking a balance between online freedoms and regulatory requirements by comparing intermediary liability frameworks across several nations. The report also explores the effects that tougher liability can have on digital innovation, highlighting the

necessity of a supportive environment while tackling content-related issues. The study emphasises the practical ramifications of changing platform liabilities by drawing conclusions from case studies regarding legal difficulties faced by intermediaries. This study examines the effects of intermediary norms on digital platforms and underlines the consequences for digital innovation and creativity via the perspective of numerous case studies. The study discusses issues with potential unintended repercussions and censorship while taking into account the need of user responsibility and education in this constantly changing environment. The topic of unforeseen effects, such as limiting free speech and inhibiting digital business, is covered in the conversation. This study offers a view into upcoming trends and proposed reforms that might shape the digital world as the debate over intermediary responsibility develops. A nuanced understanding of the complexities surrounding intermediary liabilities under the scope of IT Intermediary Rules is fostered by the analysis, which highlights the delicate balance that must be maintained between the preservation of online freedoms and the responsible regulation of digital content. This paper will contribute to future research on similar topics.

Keywords: 1. Intermediaries 2. Liabilities of Intermediaries 3. IT rules 4. Freedom of speech

RESEARCH QUESTIONS

1. How have intermediary liabilities evolved in response to the dynamic nature of the digital ecosystem, particularly in relation to user-generated content and online interactions?
2. To what extent do recent intermediary rules and regulations, such as the Information Technology (Intermediary rules and Digital Media Ethics Code) Rules, 2021 in India, influence the digital ecosystem, and what are the potential advantages and challenges, including issues related to censorship and unintended consequences?

RESEARCH OBJECTIVES

1. Examine the historical development of intermediary liabilities, starting from the early internet era characterized by a lack of liability protection, and trace the evolution through the introduction of notice and takedown procedures. Analyze how these changes have impacted user rights, content regulation, and the role of intermediaries in fostering creativity and freedom of expression.
2. Evaluate the practical consequences of recent intermediary rules and regulations, such as the Information Technology (Intermediary rules and Digital Media Ethics Code) Rules, 2021 in India, on the digital ecosystem. Explore both the potential advantages, such as increased responsibility for intermediaries, and the challenges, including censorship issues. Consider the impact on user-generated content, online interactions, and the overall landscape of digital business and innovation.

RESEARCH METHODOLOGY

To comprehensively investigate the evolution of intermediary liabilities within the developing digital ecosystem, this research will adopt a qualitative approach. Initially, a systematic literature review will be conducted to analyze existing academic literature, legal frameworks, and case studies related to intermediary responsibilities, with a focus on the impact of recent regulations like the Information Technology (Intermediary Rules and Digital Media Ethics Code) Rules, 2021 in India. This will provide a solid foundation for understanding the historical context and global variations in intermediary liability frameworks. Subsequently, a qualitative analysis will be performed, analyzing in-depth interviews given by legal experts, policymakers, and representatives from digital platforms, to gain insights into their perspectives on intermediary obligations, regulatory challenges, and the practical implications of evolving legal frameworks.

LITERATURE REVIEW

Neeti Biyani and Amrita Choudhury (2021), The 2021 Indian Intermediary Guidelines and the Internet Experience in India, In their study, author critically examine the implications of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, introduced by the Indian government in February 2021. Employing the Internet Impact Assessment Toolkit (IIAT) as their methodological framework, the authors comprehensively assess the potential impacts of the Intermediary Liability Guidelines 2021 on critical internet properties. Notably, they highlight concerns over the potential overreach of the guidelines, particularly the distinction between "significant social media intermediaries" and "social media intermediaries," with a low threshold for platforms to be considered "significant" in India. The study evaluates critical internet properties such as accessibility, data confidentiality, dependability, responsibility, and privacy, expressing apprehensions about the impact of regulations on these fundamental attributes. Key issues raised include the potential for inaccurate content blocking due to strict deadlines for content takedowns, threats to privacy and data confidentiality through traceability requirements on end-to-end encrypted messaging systems, and the erosion of reliability and accountability. The authors emphasize the importance of online accountability and express concerns about the guidelines potentially compromising the trust users place in online services. Furthermore, the report identifies a research gap in understanding the real-world implications and experiences of internet users, social media intermediaries, and other stakeholders, calling for empirical research on content moderation practices in response to the guidelines. In conclusion, the study advocates for a reconsideration of specific rules within the guidelines to strike a balance between regulatory objectives and preserving online freedoms and user privacy, underscoring the necessity for a secure and open internet landscape in India.

Shruti Sahni, Manisha and Aastha Thakur (2021), Intermediary Liability & The Media Rules, 20212, critically examines the implications and legal aspects of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, introduced by the Ministry of Electronics and Information Technology in India. It discusses the categorization of intermediaries into "significant social media intermediaries" and "social media intermediaries," emphasizing the increased responsibility on prominent social media platforms. The paper delves into the three sections of the Media Rules 2021, addressing terms, intermediary due diligence, and a "Code of Ethics and Procedure and Safeguards in Relation to Digital Media." The article explores the concept of safe harbor protection for intermediaries under Section 79 of the IT Act of 2000, highlighting the conditional nature of this protection and the potential consequences of non-compliance with the due diligence criteria outlined in the rules. Notably, the authors express opposition to the Media Rules 2021, raising concerns about the legality of delegated legislation and emphasizing potential restrictions and ambiguities in the regulatory framework. The study underscores the importance of ongoing legal challenges and the need for judicial scrutiny. However, it acknowledges a gap in the analysis, as there is no information on how the rules affect smaller intermediaries, suggesting the necessity of studying the specific challenges faced by regional news websites, discussion forums, and specialized content providers in complying with the regulations and their potential impact on market entry and innovation. Despite this limitation, the article is considered a valuable resource for those interested in understanding intermediary liability and digital media regulation in India due to its in-depth investigation and careful consideration of legal ramifications.

Indranath Gupta & Lakshmi Srinivasan (2022), Evolving scope of intermediary liability in India, The authors underscore the significance of intermediary liability in the digital era, aligning with existing Indian literature on the challenges faced by online platforms in managing their online presence. They provide an overview of India's legal system for intermediary responsibility, focusing on the Information Technology Act and its impact. The confusion surrounding due diligence standards despite the Act's safe harbor protection is highlighted. The authors delve into the influence of court rulings, emphasizing their significant role in shaping India's intermediary responsibility laws, a point reiterated in existing literature. The critical evaluation of various judgments underscores the need for precision in the legal structure controlling intermediary liability in India, a sentiment shared by other academics. The article emphasizes the historical complexity and lack of clarity in Indian law regarding intermediary obligations. While the authors contribute valuably to the existing literature, they identify a potential research gap, noting a lack of discussion on how the expanding scope of intermediary liability affects the Indian digital media business. The article suggests a need for future studies to investigate the impact of intermediary liability expansion on India's digital media market and the challenges faced by online platforms in controlling their online presence. The authors' recommendations for clarity in the legal framework align with suggestions from other scholars in the field, concluding that their work contributes significantly to the literature on intermediary liability in India.

Pooja Gautam (2022), Critical Analysis of Intermediary Guidelines and Digital Media Ethics Code, provides a comprehensive examination of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, introduced by the Indian government to regulate social media intermediaries and digital news media. The article begins by highlighting the importance of social media in people's lives and the challenges arising from its unrestrained use, noting its potential for communication and information exchange but also acknowledging the propagation of harmful content like fake news and hate speech. The guidelines are thoroughly explained, outlining key clauses such as the appointment of grievance officers and compliance officers for social media intermediaries. Digital news media is required to follow journalistic ethics as per the Press Council of India and the Programme Code. The article discusses the potential impact of these guidelines on users and intermediaries, noting criticisms regarding potential violations of free speech rights and the need for clarity in the regulations. It stresses the importance of implementing the rules in a way that is open, responsible, and aligned with fundamental rights, advocating for explicit and clear instructions. The conclusion recognizes the significance of the guidelines in ensuring responsible social media use in India but emphasizes the need for their application in accordance with natural justice and without violating fundamental rights. Overall, the article is well-researched, educational, and provides a nuanced appraisal of the guidelines' advantages and disadvantages. It serves as a valuable reference for understanding the effects of these standards on Indian intermediaries and social media users, appealing to scholars, policymakers, and the general public interested in the regulation of social media in India.

INTRODUCTION

The Indian government introduced the IT Intermediaries Rules 2021, also called the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021, to regulate intermediaries that operate in the digital space. Under the legal framework of the Information Technology Act of 2000, these regulations went into effect in May of 2021. These regulations' main goals are to uphold the responsibility of digital platforms, resolve issues with online content, and encourage responsible behavior. Important clauses include the designation of grievance redress officials, timeliness for content removal, traceability of content origins, user verification, compliance report filing, and emergency blocking authority for the government. Furthermore, certain requirements, such as a self-regulation code and a grievance redressal mechanism, are applicable to digital media and Over-the-Top (OTT) platforms.

Some contend that the IT Intermediaries Rules strike a required balance between user privacy and free speech, while others voice worries about potential overreach and dangers to online freedom of expression. These arguments have spawned debates and legal challenges. The Indian government has made great strides in addressing the issues of the digital era, efficiently regulating intermediaries, and guaranteeing accountability and safety when using the internet using these regulations. As these regulations are put into practice and interpreted differently, there is constant debate and examination of them in India's digital environment. Social networking platforms, e-commerce websites, and messaging applications are just a few of the digital intermediaries that will be significantly impacted by India's IT intermediaries Rules 2021. These regulations force these platforms to assume additional duties, be aware of potential risks, and adhere to certain legal specifications. Social media companies have an obligation to quickly remove anything that offends users and to work with law authorities to determine who the "first originator" of a particular message is. If this isn't done, there may be legal consequences, including criminal culpability. Establishing traceability systems and designating resident compliance officers are two aspects of compliance needs.

E-commerce platforms need to make sure that their vendors follow consumer protection laws and regulations and provide comprehensive seller and product details. They run the risk of being held accountable for failing to comply and selling inferior goods. They have to set up procedures for handling customer complaints and designate resident compliance officers, just like social media companies. When necessary, messaging applications also have an obligation to assist law enforcement by allowing message tracing. There may be legal ramifications for noncompliance or for aiding and abetting criminal activity. For messaging apps, resident compliance officers must be appointed. All things considered, these regulations mark a dramatic change in India's digital intermediaries' regulatory environment by placing a strong emphasis on user safety, accountability, and local law compliance.

In light of these developments, this paper embarks on a critical analysis of the Information Technology Intermediary Rules 2021, delving deep into their origins, implications, and ramifications. It seeks to unravel the complex tapestry of these rules, their potential effects on digital intermediaries, and their significance in the broader context of digital governance and freedom of expression. Through a comprehensive examination, this paper endeavors to provide a nuanced understanding of the IT Intermediary Rules 2021, shedding light on the various perspectives and debates surrounding their implementation and impact on India's digital landscape.

HISTORICAL BACKGROUND

In the last two decades, India has witnessed a series of amendments to its laws governing intermediary responsibility, reflecting two core objectives. First, these changes aim to provide intermediaries with practical guidelines for managing their online presence. Second, the fundamental laws and directives driving these changes seek to foster transparency and fairness in the online realm. This article takes a comprehensive look at

the pivotal milestones in the regulatory framework governing intermediary liability, spanning from the enactment of the Information Technology Act in 2000 to the revised Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules in 2021 (referred to as the "2021 Guidelines"). Along the way, it examines the scope of intermediary liability in India and sheds light on the evolving strategies and uncertainties encountered over the past two decades.

The journey commences with the introduction of the Information Technology Act of 2000 (ITA 2000), which granted limited immunity to intermediaries for third-party content. A significant turning point emerged with the landmark *Shreya Singhal v. Union of India* case in 2015, which invalidated Section 66A of the ITA 2000 and underscored the protection of free speech. In 2011, intermediary guidelines were released, followed by explicit rules outlining intermediary responsibilities, including prompt responses to content takedown requests.

Nonetheless, a significant shift in the landscape occurred in February 2021 with the introduction of the IT Rules 2021. These regulations raised the bar for compliance, mandating the appointment of Chief Compliance Officers and Nodal Contact Persons, and expanding their applicability to encompass social media platforms. The establishment of a multi-tiered grievance redressal mechanism and the requirement for platforms with over 5 million users to incorporate traceability features introduced a spirited debate on how to strike a balance between user privacy, freedom of expression, and regulatory oversight in the digital age. These rules were perceived to pose risks to free speech and amplify governmental control over internet platforms, sparking concerns within the digital space.

Nevertheless, India's position in this landscape has not always been straightforward. It finds itself positioned between the standards established in developed nations and its own unique regulatory environment, as defined by the Information Technology Act of 2000 and the Information Technology (Intermediary Guidelines) Rules of 2011. There have been instances where India's efforts to define the extent of intermediary liability have exhibited variability. Consequently, the quest for a precise framework governing how intermediaries should operate continues to be a work in progress.

DATA CONFIDENTIALITY OF INFORMATION, DEVICES, AND APPLICATIONS

As Rule 4(2) of the Intermediary Liability Guidelines 2021 mandates that major social media intermediaries that offer services primarily related to messaging be able to facilitate the identification of the information's "first originator." This regulation appears to be directed at widely used end-to-end encrypted messaging services, but it might also apply to social media sites that let users send messages to one another directly. It appears that law enforcement agencies seek to identify the first originator of an encrypted message that they already have access to through other means. The rule makes clear that major social media intermediaries are not "required to disclose the contents of the electronic message." This might occur if someone manages to get access to a device that is part of a messaging chain, or if a message spreads widely and reaches thousands of people, one of whom reports it. End-to-end encrypted messaging services are unable to read messages that are shared on their network or determine who sent a message in the first place. While the Government of India's current proposals may not explicitly mandate intermediaries to reveal a message, it does not follow that the intermediary will never be required to obtain the message's contents. When the government looks for the source of a message, it usually does so because it already knows what the message contains. Intermediaries might have to associate the known content of a message with its original author in order to abide by the law and protect themselves from liability. The only way they could accomplish this would be to break end-to-end encryption by accessing every message

in a forwarding thread. Nevertheless, Rule 4(2) violates the IT Act, which is the parent law of the Intermediary Liability Guidelines.¹

The government is not authorised by the IT Act to require traceability. By requiring traceability, Rule 4(2) violates end-to-end encryption systems, jeopardises user privacy, jeopardises data confidentiality, defies the idea of data minimization, and may pave the way for censorship and government overreach. The goal of a secure Internet is gravely threatened by these proposal requirements taken as a whole. Data and communications between the sender and the recipient are kept private thanks to end-to-end encryption. Both people and companies are put in danger by any attempt to compromise end-to-end encryption systems. Rule 4(2), which requires end-to-end encrypted message traceability, will increase the cost of storing all the data required to track every message ever exchanged on such a platform. This will affect affordability and make it more difficult for new competitors to enter the market and provide end-to-end encrypted messaging services in the nation. End-to-end encryption poses a threat to a plethora of marginalised groups, including but not limited to journalists, victims of domestic abuse, and members of the LGBTQ+ community. Furthermore, major social media intermediaries are required by Rule 4(4) of the Intermediary Liability Guidelines 2021 to "deploy technology-based measures, including automated tools or other mechanisms" in order to proactively detect and filter content that depicts child sexual abuse material (CSAM), rape, or content that has previously been removed in response to a takedown notice. Setting up client-side scanning, which refers to systems that check message contents (text, photos, videos, files, etc.) for matches against a database of objectionable content before the message is sent to the intended recipient, will be necessary for social media intermediaries to accomplish this.² Data confidentiality is compromised because end-to-end encryption is rendered useless because intermediaries providing end-to-end encrypted messaging are forced to monitor and filter every message a user sends.

THE 2021 RULES' REQUIREMENTS REGARDING DUE DILIGENCE

In order for the intermediaries to be granted safe harbour under the IT Act, they are required to fulfil a number of prescribed obligations as per R.3 of the IT rules 2021. On one end of the compliance spectrum, intermediaries are required by the 2021 Rules, which went into effect on May 26, 2021, to prominently publish rules and regulations on their website informing users about the kinds of information that are prohibited from being stored or transmitted on the intermediary's computer resource (prohibited information). On the other end of the spectrum of diligence obligations, intermediaries are obligated, within 36 hours of becoming aware of the existence of prohibited information on their servers—for example, through a court order or notification from a relevant government agency—to delete or disable access to that information. The requirement to designate a grievance officer and prominently display his or her name and contact information on the organization's website is another significant modification, as mandated by the 2011 Rules. In keeping with the 2011 Rules, the 2021 Rules mandate that the grievance officer reply to any court order, notice, or instruction, as well as any complaint from a particular user or victim. In addition, a complaint has to be resolved within 15 days of being received (instead of the previous rule of one month). Apart from the standard due diligence requirements for all intermediaries, an SSMI must fulfil extra duties as well. The appointment of a chief compliance officer, who will be accountable for any intermediary's failure to exercise due diligence, a nodal contact person who is on call 24/7 to ensure adherence to court orders and facilitate communication with law enforcement, and a resident grievance officer who will manage user grievances are just a few of these responsibilities. Setting up a physical contact address is also required in India.

¹ Maheshwari & Nojeim, 'Part 2: New Intermediary Rules in India Imperil Free Expression, Privacy and Security', Center for Democracy & Technology, June 2021

² Internet Society, 'Fact Sheet: Client-Side Scanning', March 2020, <<https://www.internetsociety.org/resources/doc/2020/fact-sheet-clientside-scanning/>>

One significant mandate for SSIMs is the additional responsibility, under R.4 of IT Rules, to assist in identifying the information's original source in the event that a judicial order issued under Section 69 of the IT Act and its implementing regulations is required. Even though the 2021 Rules make it clear that such an order must be passed in order to prevent, detect, investigate, prosecute, or punish "serious" offences, which carry a minimum five-year prison sentence, there is a direct consequence of this that could jeopardise the messages' end-to-end encryption that the intermediary may be providing. In this context, It's also important to keep in mind that, in the event that the first originator of any information is located outside of India, the individual who originated the information within India will be regarded as the original originator of the information. The 2021 Rules encourage the application of technological measures, which appear to be mainly used for detecting sexually explicit content at the moment. These measures include automated tools and other mechanisms. This is another aspect that is relevant to SSIMs. When applied practically, this aspect must take into account a number of legal and ethical considerations.

GUIDELINES FOR DIGITAL MEDIA

Digital media entities that engage in the systematic business of making content available within India are subject to a number of obligations under the 2021 Rules, even though digital media regulation was not originally intended by the IT Act. Publishers of news and current affairs and publishers of online content curation would make up the majority of these digital media organisations ("publishers"). All of these individuals are bound by the Code of Ethics ("Code"), which is described in Part III of the 2021 Rules. It's interesting to note that this Code will regulate foreign news publishers who have an online presence in India.

A three-tiered grievance redressal process is also required by the 2021 Rules to handle any complaints regarding Code violations under R. 11 to R. 13. A grievance officer at Level I must be chosen by the publisher directly. A grievance is automatically escalated to Level II, the self-regulatory body of one or more publishers or their associations, if it is not resolved by the grievance officer within 15 days. In The 2021 Rules, at Level III, call for the creation of an Inter-Departmental Committee that will consider complaints regarding Code violations as well as grievances pertaining to the self-regulatory body's ruling. When taken as a whole, the 2021 Rules have the potential to impose a number of duties on the intermediaries, bringing them closer to regulation similar to that of more established media outlets. A regulation was imminent given the direct influence intermediaries can now have on politics and society. The absence of a thorough consultation process during the development of the 2021 Rules, however, has drawn criticism and cause for concern. As a result, multiple challenges have been filed against them, and these are currently being reviewed by the courts. Intermediaries should, in the meantime, adjust to a future characterised by increased regulation and oversight.

CONSEQUENCES OF VIOLATING THE 2021 REGULATIONS

Section 79 of the Information Technology Act, 2000 (IT Act) prohibits intermediaries from claiming safe harbour if they transgress both the Act's Part II's due diligence requirements and the 2021 Rules. As a result, the intermediary becomes accountable for violations of multiple laws, such as the Penal Code, 1860 (IPC) and the IT Act, depending on the circumstances. Furthermore, the IT Act stipulates that an intermediary may be sentenced to up to seven years in prison and a fine if they fail to provide information requested by a law enforcement agency or to block public access to information when instructed to do so. Furthermore, as seen in cases involving intermediaries, the IPC's provisions ranging from criminal conspiracy sale of pornographic books, etc., deliberate and malicious acts intended to offend religious feelings, criminal defamation, and in certain cases criminal breach of trust[23] and cheating may also be attracted.

The immediate result of inadequate or improper compliance with the 2021 Rules is that the intermediaries lose their safe harbour under the IT Act due to the broad nature and extent of compliances prescribed under the rules,

which impose a higher threshold of diligence upon intermediaries and more specifically significant social media intermediaries (SSMIs). As a result, there will be more criminal accusations and complaints filed, where intermediaries will also be held accountable, or at the very least exposed.

Regarding digital media entities, the 2021 Rules state that regardless of whether they follow the Code of Ethics outlined in the rules, they will be held accountable under any law that they violate. With cases of complaints or FIRs being filed against content hosted on video sharing and over-the-top (OTT) platforms in the recent past, the threat of drawing criminal allegations by digital media platforms has increased, making this particularly pertinent in the modern era. It's interesting to note, though, that the 2021 Rules themselves do not outline the legal ramifications for digital media companies that violate them. Instead, the 2021 Rules give the Ministry of Information and Broadcasting, the self-regulatory body, the authority to, among other things, warn, censure, admonish, and demand an apology from a publisher; remove or alter content to avoid inciting a crime; and issue orders for content blocking under Section 69-A of the Act. These powers are based on the recommendations of the inter-departmental committee.

The requirement to "remove or disable access" within 36 hours of receiving a court order or notification from the government or one of its agencies, as well as to not store or host any unlawful information (which is defined rather broadly) upon real knowledge in the form of a court order or notification, is another crucial component of complying with takedown orders. The court has the authority to order an intermediary to disable or de-index illegal content worldwide when granting a takedown order. Furthermore, the officers in charge of an intermediary's operations may face legal repercussions if they disregard a court's takedown orders. Interestingly, though, the 2021 Rules do not state clearly that the takedown notification from the government or its agency must be in writing; if it is not, there could be room for abuse. The R.3(3) of Rules also require that information and related records of information that has been removed be kept for 180 days in order to conduct an investigation; this time frame may be extended if a court or government agency requests it. Importantly, this requirement also holds true in situations where the information was deleted due to complaints made through the intermediaries' designated grievance redressal process.

CONCLUSION

In initial scrutiny, the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, demonstrate a comprehensive approach to regulating various digital media platforms and intermediaries while striving to achieve multiple objectives aimed at governing the online landscape. Given the pervasive influence and significance of online spaces in contemporary society, the role of intermediaries, especially Significant Social Media Intermediaries (SSMIs), cannot be overstated. The need for regulation in light of intermediaries' direct impact on politics and society was evident. However, the absence of a thorough and inclusive consultation process during the formulation of the 2021 Rules has been met with criticism and concern, leading to several legal challenges that are presently under review by the courts.

The central question surrounding the Media Rules, 2021, revolves around the government's attempt to promulgate them through delegated legislation rather than parliamentary legislation, and whether this approach will withstand legal scrutiny. The legal query pertains to whether Section 79 of the IT Act legitimately empowers the government to impose these new obligations on internet intermediaries to maintain the legal protection that the same provision offers. The Rules establish a robust and comprehensive grievance redressal system, but the assigned timeframes for SSMIs to identify and address complaints may appear impractical given their extensive user reach and the volume of grievances received by the Responsible Grievance Officer (RGO) of an SSMI.

However, numerous questions persist. Can the stated objective of empowering the average user, as outlined in the 2021 Rules, be effectively achieved? Is it feasible or consistently enforceable for intermediaries to fulfill due diligence obligations across the various categories? Do the criminal penalties stipulated for violations of the 2021 Rules align with the potential offenses an intermediary might be accused of committing? These questions loom large and await comprehensive examination and resolution. The future will undoubtedly witness continued debate, legal assessment, and regulatory evolution as the digital landscape continues to evolve, and the intricate balance between freedom of expression, user protection, and regulatory authority is further refined.

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