

Silencing speech online

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, are an extension of a culture of intolerance consisting of misuse of draconian laws—a culture perpetuated by the Modi government.

Published : Jul 01, 2021 06:00 IST

THULASI K. RAJ

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A protest against the arrest of the environmental activist Disha Ravi, in Hyderabad on February 20.

Speaking truth to power is precarious. Authoritarian governments do not like to be told what they are doing is wrong. They find ways to restrict speech and expression. This need not be always in the form of outright censorship. For example, in 1934, the State of Louisiana in the United States passed a legislation imposing a license tax on newspapers and magazines with a circulation of more than 20,000 copies—a move aimed at publications critical of the government. In 1956, the Indian

government passed the Newspaper (Price and Page) Act, which empowered it to regulate the price and advertising space of newspapers.

Speech could also be restrained by a carefully designed regulatory mechanism imposing extraordinary burdens on the media. A principal aim of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, is precisely this. The Rules are deliberately structured to make overreaching interference and impose criminal sanctions for non-compliance. They are an extension of a culture of intolerance consisting of misuse of draconian laws such as sedition (124-A, Indian Penal Code) and introduction of harsh statutes such as the Unlawful Activities (Prevention) Amendment Act, 2019—a culture perpetuated by the Narendra Modi government.

The Rules came into force in February, superseding the Information Technology (Intermediary Guidelines) Rules, 2011. The most striking feature of the Rules is that they regulate both the digital media (including ‘publishers of news and current affairs content’) and ‘publishers of online curated content’, in addition to intermediaries. They impose a three-tier structure of regulatory mechanism through Rule 9(3) consisting of Levels I, II and III, that is, self-regulation by publishers, self-regulation by self-regulatory bodies of publishers and oversight mechanism by the Central government.

Publishers are legally required to set up their own oversight mechanisms, and, at the same time, subject themselves to the government mechanism. Under the former, numerous obligations, such as appointment of grievance officers, classification of curated content, and response to every grievance within 15 days, are mandated. This framework is ostensibly onerous especially for publishers with limited financial and human resources. This is sufficient to cripple small organisations and independent journalists.



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