

## Gist of EPW March Week 2, 2021

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### Politics of Regulating Digital Media

#### Context:

The article analyses the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 issued by the union government to ensure accountability of big tech companies.

You can read about the [New Information Technology Rules, 2021](#) in the link.

#### The Information Technology Rules, 2021

The Union government has issued The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 which exercise its powers under the [Information Technology Act, 2000](#).

- These rules have been subjected to severe criticism. These rules not only affect millions of internet users of India but also have been issued without any public consultation.
- These rules have created a sense of justified fears among the masses as people are not aware of the use of these rules by the government.
- There are certain clauses in these rules which require sharing of encrypted information which have created a sense of concern among internet users regarding their online privacy.
- Besides the internet users, the rules have created confusion among online news media entities and online curated content producing companies, which are brought under the intermediary rules for the first time.
- However, it is claimed by the government that it is only providing statutory backing to a self-regulatory model but the legitimacy of these laws applying to content creators and news media is still suspect.
- These content creators and news media cannot be considered intermediaries and they are legally liable to post content on their websites.
- Although the need for content regulation is a matter of debate, giving it the current legal form has led to a lot of apprehensions that this will discourage news reporting and anti-establishment views.

#### Safe harbour protection:

- These rules have also led to a debate on the “Safe Harbour Protection” availed by the internet intermediaries.
- As the law stands, if the internet intermediaries like web-hosting providers, social media companies, etc. abide by the requirements of Section 79 of the IT Act, exemptions are provided to them from the legal liability for information hosted on the internet by them.
- The information technology rules 2021 has set the requirements for the intermediaries which have to be followed by them, replacing the requirements which were set under the 2011 rules.
- The intermediaries will be able to enjoy legal protection from the consequences for the content they host, only if they will act in accordance with these rules.
- The origin of safe harbour protection in the IT Act can be traced back to Section 230 of the Communications Decency Act (CDA), 1996 enacted in the USA.
- The reason behind adding this provision is that at that time the internet industry was in a nascent stage and given the nature of technology, it would not be able to take responsibility for everything done by the user on its platforms such as copyright violation, defamation or pornography. The safe harbour provision in India’s IT Act is also based on the same logic.
- However, now the internet is not a nascent industry and the assumption that content created by users is impossible to monitor no longer holds true. Therefore, the US now is re-examining Section 230 of the CDA.

### **Changing paradigm of the internet:**

- Big tech companies and social media giants have earned billions of dollars every year and have faced few consequences for letting misinformation, women harassment, etc. spread through their platforms.
- The business model of these companies is based on using data to identify users and sending targeted advertisements to them rather than simply acting as a platform for sharing information.
- Now with the introduction of algorithms that decide what users will see, the landscape of regulation has changed and the law has not taken account of it. So, big tech companies should be held accountable for the contents created by users which are then spread by them using their algorithm.
- While Section 230 of the CDA may not get repealed in the near future, it is time for the US and other countries including India to rethink the safe harbour approach to reflect the changed reality.
- In accordance with it, the information technology rules, 2021 mentioned a category of “significant social media intermediary”. This recognises that the internet of 2021 is very different from that of 2001 or 2011.

### **Conclusion**

- Though the rules are problematic, big tech companies should be held accountable for harmful content on their platforms.

- Social media has the power to influence democratic discourse. There should be a balance between making big tech companies accountable for their actions and ensuring that regulations do not lead to suppression of [freedom of speech](#) and expression.
- This balance can be struck by adopting a participative process while framing the rules.
- However, the union government has ignored the concerns of stakeholders while framing the rules. This itself raises questions about the intentions of the government.

## The Pitfalls of Quota for Locals

### Context:

The article discusses various factors which led to the demand for reservation in local employment and implications arising out of such a move.

### Introduction:

- The Bharatiya Janata Party-led government in Haryana has decided to reserve 75% of new jobs having monthly salaries below Rs. 50,000 for local candidates in private organizations which employ 10 or more than 10 persons.
- This move has again put forward the concerns regarding the constitutional validity of such reservations and their consequences on the economy and polity as well.
- However, seeking reservations for the local candidates in employment has been in demand by some of the developed states on a regular basis.
- Now, the matter is again slowly picking up speed and this time more states are involved including the less developed states as well.

### Constitutionality of reservation:

- In the Indian Constitution, there are various provisions that permit the free movement of people around different regions.
- Not only this, the prohibition of any discrimination on any grounds such as place of birth, etc. is also ensured by the Constitution.
- Public Employment (Requirement as to Residence) Act, 1957 nullifies any provision enacted by states that provide for residential requirements in matters of public employment.
- The Supreme Court in *Charu Khurana v Union of India (2014)* has declared all restrictions on employment on the basis of the place of residence as unconstitutional.
- In spite of this fact, the government in many states such as Gujarat, Karnataka, Andhra Pradesh, Maharashtra, Uttarakhand, and Tamil Nadu keep on introducing such reservations or promise to bring such types of regulations for the local candidates in employment.
- In some states such as Bihar, such quotas have been demanded by the opposition parties.

### **Impact of reservation on migration:**

- These employment quotas for locals are not only constitutionally incorrect but also discourage migration either for education or employment.
- Migration is interlinked with the process of development as it allows for the reallocation of labour across occupations, sectors and regions and facilitates more efficient allocation of resources among different productive uses.
- Most importantly, these hindrances in the way of migration lead to adverse impacts on especially the disadvantaged sections because migration is a useful strategy for the livelihood of the poor who have been the victims of feudal and caste chauvinism at their home states.
- The recent spike in demand for local quotas in employment is a surprising fact as the data shows that the level of migration in India is very low.
- If we compare India with other countries then it is evident that the cross-district migration rate in India is merely 2.8% as compared to over 9% in Brazil, 10% in China and over 20% in the United States (US).
- In a similar way, interstate migration was recorded as just above 1% whereas, in countries like Brazil, China and the US, it was 3.6%, 4.7% and almost 10% respectively.
- A comparative cross-national study conducted on internal migration concluded that India ranks the last among 80 participating countries.
- The reasons behind this low level of migration include language and caste barriers, large distances and bottlenecks in logistics, and the inability of migrants to access domicile-based education and employment opportunities and other welfare schemes provided by state governments.

### **Politics of demand for quota in local employment**

- The high unemployment rate is also a reason for the growing demand for local employment quota.
- However, in demanding quota in local employment, political factors dominate economic factors.
- It is to be noted that states favouring local employment quotas have less unemployment. States which favour local employment quotas are ruled either by a majoritarian government or by regional political parties.
- It is in contrast to states such as Kerala and Punjab, which have migrant-friendly policies. Kerala provides social security cover, compensation for accident or death and other entitlements despite having a high level of unemployment.
- Such divergent approaches in different states point out that demand for quota in local employment is inspired by political factors rather than economic factors alone.
- Discrimination with migrants has become an easy tool for ruling parties especially regional and majoritarian parties, to gain political benefits. By targeting migrants they exploit provincial and religious sentiments to cover their failures and arrest discontent against them.

- Provocation of provincial and religious sentiments, in turn, increases the risk of breakdown of law and order and destabilizes the economy. Then these parties create fears about migrants stealing jobs to reinforce divisive agendas.

### **Implications of such moves**

- Such moves severely undermine development prospects apart from its political implications. Providing quota in local employment discourages the movement of surplus labour from agriculture to the manufacturing or services sector in urban areas. This in turn impacts economic growth.
- Local employment quota is generally confined to lower-end jobs or blue-collar jobs. Thus, elite sections of society employed in high-end jobs are less impacted by it. The burden of such moves falls on poor and disadvantaged caste groups, who are struggling to get out of poverty.

### **Conclusion:**

- The demand for quota in local jobs is a zero-sum game. It will not only hurt the economy and polity of the particular state or region but also the national development.
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