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# Indian super-cops now patrol the www highway

There's discontent brewing in the Indian cyberspace. And it has to do with the government blocking content that it deems "objectionable". What has raised hackles of Internet freedom activists is a new set of rules that allow Internet service providers (ISPs) and blogging sites to remove "objectionable" content from the Web.

This Wednesday, in a written reply, minister of state for information and technology Sachin Pilot told the Lok Sabha that the recently notified rules under the IT Act to regulate the use of Internet, "don't give any power to the government to regulate the content"? Pilot added that the rules did not raise issues "pertaining to privacy and violation of freedom of speech and expression."

Are the rules likely to affect you and I? They may have already begun do so. Last fortnight, when surfers went on to popular file-sharing sites to download clips of a new Bollywood release, what they got instead was a screen with the message: This site has been blocked as per instructions of the Department of Telecom.

## The fine print

The new rules demand that the intermediary notify users not to publish or use information that is derogatory, abusive, insulting or which violates intellectual property rights or impacts the sovereignty of the nation. In a country that has 81 million Internet users, this can never be easy.

The rules put the onus of intercepting, blocking and removing objectionable content on intermediaries — telecom service providers, search engines, social networking sites and online payment sites — turning them into super-cops of the Web. "Although the Act is an improvement

on the previous one, the rules put too much onus on intermediaries," says Dr Subo Ray, President, Internet and Mobile Association of India (IAMAI). "The intermediaries have become the judge, the jury and the executioner," says Ray.

In a nation where social mores are in a flux, interpretation of what is objectionable under the new rules is wide and subjective, says technology lawyer Rodney D Ryder. "Content deemed 'disparaging', 'harassing', 'blasphemous' or 'hateful' can be blocked. But who will decide what is disparaging?"

The worst bit about such censorship, says Nikhil Pahwa, editor of Medianama, a portal that discusses issues related to digital media, is its opacity. "It is a distress signal for civil liberties and India's version of Egypt's kill-switch. With the UID, the government would know who I am. With the help of telecom operators, they can track me within 50 metres and with my mobile number, snoop in on my conversations. On top of that, do we need Internet rules that don't have a provision of appeal?"

Ryder concurs: "The regulations do not even provide a way for content producers to defend their work or appeal a decision to remove content. This is against the principles of natural justice."

The rules are a case of deceptive legislative drafting says cyber lawyer Pawan Duggal, chairman of Assocham's cyber law committee. "The provisions hide more than what they disclose.

Cosmetically, the new rules says that if you are an intermediary, then you shall not be liable for any third-party data, information or communication link made available or hosted by you. Provided, and this is crucial, you follow a number of stringent conditions."

Duggal says many intermediaries in India are not aware of these conditions. "An intermediary will not be liable for any third-party data made available or hosted by it, provided it complies with the law, exercises due diligence, does not abet, conspire or play an active role in a criminal activity and further, provided that once it is notified of any offending activity, removes or disables access of the said offending content expeditiously. If it fails to fulfil one of the conditions, it is open to criminal exposure and civil exposure upto unlimited damages by way of compensation."

## Is it gagging net freedom?

In China and Saudi Arabia, governments routinely censor content and redirect search requests to error pages. In Vietnam, bloggers who criticise the government are sometimes arrested. And in Cuba, there is talk of creating "a national Internet". Still, any talk of comparing India with these restrictive regimes is alarmist and stupid, says Ray of IAMAI.

But over the past few years, the government has been gradually building censorship muscle over the Internet, say activists. In 2006, it blocked Typepad, the blog hosting service and a bulk SMS site.

A right to information plea filed by the Bangalore-based Centre for Internet and Society reveals the government blocked 11 sites between 2008 and 2011 (see box). These range from sites hosting the predictable girl wallpapers and Kamasutra to blogs discussing the freedom of speech.

Yet, in his written reply to the Lok Sabha, Pilot insisted that the rules "do not give any power to the government to regulate the content".

If this sparks any discontent in you about privacy, freedom of speech and civil liberties, think twice before sharing the content on the Internet.

This article by Aasheesh Sharma was published in the Hindustan Times on August 6, 2011. The original can be read [here](#).

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We invite researchers, practitioners, artists, and theoreticians, both organisationally and as individuals, to engage with us on topics related internet and society, and improve our collective understanding of this field. To discuss such possibilities, please write to Sunil Abraham, Executive Director, at [sunil\[at\]cis-india\[dot\]org](mailto:sunil@cis-india.org) or Sumandro Chattapadhyay, Research Director, at [sumandro\[at\]cis-india\[dot\]org](mailto:sumandro@cis-india.org), with an indication of the form and the content of the collaboration you might be interested in.

In general, we offer financial support for collaborative/invited works only through public calls.

## Office Locations

**Bengaluru:** No. 194, 2nd 'C' Cross, Domlur, 2nd Stage, Bengaluru, 560071. [Location on Google Map](#).

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## About Us

The Centre for Internet and Society (CIS) is a non-profit organisation that undertakes interdisciplinary research on internet and digital technologies from policy and academic perspectives. The areas of focus include digital accessibility for persons with diverse abilities, access to knowledge, intellectual property rights, openness (including open data, free and open source software, open standards, open access, open educational resources, and open video), internet governance, telecommunication reform, digital privacy, and cyber-security. The academic research at CIS seeks to understand the reconfigurations of social and cultural processes and structures as mediated through the internet and digital media technologies.

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