Social Media Platforms and Compliance with Indian Information Technology Laws: An Analysis of Censorship, Legality and Freedom of Expression

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*Abstract-*The 'Intermediary Guidelines and Digital Media Ethics Code', 2021, which are part of Indian Information Technology Act implemented in April 2023 amidst apprehensions from certain quarters that it could potentially restrict freedom of expression on the internet. The rule mandated social media platforms with 5 million users registered in India to release compliance reports monthly. In compliance with the rules, social media platforms started releasing reports on their respective websites as mandated by the IT rule 4(1)(d) to avoid risk of losing the safe harbour immunity under section 79 for the third party content on their respective platforms. This paper looks into the compliance reports of social media platforms in case study of Facebook and X (formerly Twitter). The objective of this paper is to study the compliance with IT rules and sorts of data these social media companies are removing from their platforms and analyzing the implications on freedom of expression online. The study focuses on Facebook and X in exploring compliance to IT rules. By investigating these issues, the study contributes to understanding the complexities surrounding the compliance with Indian IT rules.
Key words: IT Act, Social Media, Censorship, Freedom of Expression X, Twitter, Facebook, Meta, Digital Media Ethics.

1. INTRODUCTION

The Government of India has enacted new rules titled as "Intermediary Guidelines and Digital Media Ethics Code, 2021(IGDMEC)" which deal with digital platforms, especially social media content and its stakeholders as a part of Information Technology (IT). It is always sensible to bring any new law with respect to media as it is a double edged sword where it should keep the sanctity of freedom of press as well as safeguarding the interest of the citizens and the nation. The new guidelines ignited a thorough debate. IT rules mandated significant social media platforms having 5 million users locally registered to comply with a set of new guidelines and codes. Failure to comply could result in the forfeiture of the safe harbour immunity. Section 79 was added to provide safe harbour to social media platforms following the infamous scandal of the Delhi Public School Multimedia Messaging Service in which the Chief Executive Officer of the website was put behind the bar for the third-party content (Gupta, 2022). The amended rules mandate that intermediaries establish a three-tier compliance mechanism and create three new roles, which must be held by individuals residing in India.

1. A compliance officer entrusted to ensure that the social media company follows the new guidelines as per law. The Chief Compliance Officer (CCO) will be responsible for ensuring adherence to IT regulations and will be held accountable in any legal proceedings for third-party content if these regulations are not followed.
2. A grievance officer who will be responsible to handle the user complaints related to the platform.
3. And, a contact person who needs to be available 24/7 to enforce Indian laws on the platform.

The new law stipulates that at the first level, intermediaries must engage in self-regulation to filter objectionable/bad content in accordance with Indian laws. The law promotes social media to devise an auto-blocking of harmful content from their platforms. It was also suggested by the top court in India (Gupta, 2022). At the second level, intermediary bodies need to regulate social media platforms, and at the third level, the Union government provides oversight through an inter-ministerial committee to address user complaints and ensure compliance by social media platforms. Subsequent to these amendments, social media platforms are releasing monthly compliance reports on their respective platforms/websites.

The core objective of this paper is to understand the compliance of social media intermediaries with IGDMEC Rules, 2021, and the actions taken by them in removing data from their platforms. Two major players in the sphere of social media, Meta (formerly Facebook) and X (formerly Twitter) have recently come under scrutiny for their practices regarding the removal of data from their platforms. This paper explores the challenges posed by the lack of transparency in data removal by these companies, the implications for compliance with the rules and the broader impact on freedom of expression on the internet.

2. REVIEW OF LITERATURE

The Constitution of India through Article 19(1)(a) ensures 'freedom of speech and expression' subject to restriction which means, this right is not absolute and you cannot express your opinion beyond a certain limit and on certain issues and relations. These eight restrictions are placed in the constitution's article 19(2), namely "Security of the State; Friendly Relation with Foreign States; Public Order; Decency and morality; Contempt of court; Defamation; Incitement to an offense; Integrity and Sovereignty of India" (Columbia Global Freedom of Expression, n.d.).

The Information Technology rules mandate that social media platforms must trace the first originator of messages as per direction by competent authority if received. The rule encourages tech giants to come up with new technological solutions to find out the first originator of the message which they have not yet implemented. It is not yet in public domain that what types of data social media platforms are sharing with government across the world including India (Arun, 2019), which will surely hamper the smooth functioning of democratic set up in South Asia countries where legal recourse takes a lot of time as well as a lot of resources need to be put in to fight back. So identifying and leaking messages from a particular group will bring a chilling effect and impact the activism.

Both companies X and Meta have yet to demonstrate their commitment to adhering to such regulations, as their reports remain blank and there is no indication of any requests from Indian authorities since the implementation of the amended Information Technology rules in this regard. This too lack the transparency norms in India, whereas these companies are promptly adhering to new rules promulgated in Europe and begin to roll out new features that allow European users to report illicit information online and questionable products, which will require corporations to remove swiftly and impartially (Aljazeera, 2023). So, every user in India is not going to fight with such a big social media platform, instead he/she will opt to withdraw the account from the platform and it has been seen in many cases. Furthermore, it is difficult for each user to knock on the door of the court for retrieving his/her post on the said platform and get it reposted again. Even technically, a user's message may be hidden without informing them and sometimes we do not even care about the message being removed or hidden. But that too is fundamentally against freedom of expression and if data is removed and not mentioned in the report of these social giants related to current affairs, will hinder freedom on the Internet and this could have negative inferences on freedom of expression and civil liberties in mostly South Asia countries where legal course takes a lot of time and efforts to fight back such a huge tech gaits who has amply resources to crash such pleas anywhere in the world. So, only a robust mechanism in place can set and maintain a certain standard in order to keep the expression freed from censorship.

3. METHODOLOGY

The study relied on secondary data. The study aims to understand the implications of IGDMEC Rules, 2021 on Indian social media platforms. In addition the study also reviewed the compliance of IT rules. To conduct the research a case of IGDMEC Rules, 2021 from IT Act by the Ministry of Electronics and Information and Technology, Government of India was shortlisted. Document and policy analysis is the primary tool that is employed for analysis. Monthly reports from social media platforms 'Facebook' and 'X' were taken into consideration for the investigation. A sample of Jul-Dec 2021, Jan-Jun 2022, Jul-Dec 2022 and Jan-June 2023 were included for the analysis.

4. Discussion and Analysis:

Compliance by Social Media platforms to Indian IT rules

As mandated in Rule 4(1)(d) of IT act, company X(formerly Twitter) stated in its January 2024 report that it has proactively removed or suspended mainly content related to child sexual exploitation and terrorism, totaling 232,215 and 1,945 respectively from its platform across the globe. It has auto-blocked content to a greater extent than the grievances received. In India, Company X received a total of 2,525 grievance requests in January 2024 with the company claiming actions were taken according to rules based on its policy. Details have not been divulged by the company about what types of data actually they are removing on the instruction of authorities in India.

Types of Data removed by X

If we look into the series of monthly data the company X claims to have removed, it is taking action in 13 categories covering various issues including "Abuse/Harassment, Ban Evasion, child Sexual Exploitation, Defamation, Hateful Conduct, Illegal Activities, Impersonation, IP-related Infringement, Misinformation/Synthetic and Manipulated Media, Promoting Suicide or Self Harm, Terrorism/Violent Extremism, Sensitive Adult Content and Privacy Infringement" (X, 2024). The highest number of complaints pertained to ban evasion standing at 967 for the month of January 2024, followed by Abuse Harassment at 684. The company has not been providing detailed information about banned accounts and the actions taken against URLs and links, indicating a lack of transparency. If we go back to the first compliance report of X published for the month of May 2021 after the rules promulgated in India, the company reported receiving only 30 requests for the action in which the company removed the total URLs, which stood at 133. This has increased many fold to 2,525 in the month of January 2024. This raises eyebrows as the company is not disclosing the types of data requests made by government agencies, creating doubts among users about whether the company is adhering to its own rules.

Removal of Data from Facebook

In the case of Meta's report for January 2024, the parent company of Facebook removed over 23 million pieces of harmful content from Facebook and Instagram (Aadeetya, 2024). Discrepancies arise as Meta seems to deviate from its own 'remove, reduce, inform' strategy adopted since 2016, with numerous complaints left unresolved or unanswered. Locating these monthly reports on the platforms' websites has proven to be a challenging task as easy in the case of X, suggesting avoidance from the public eyes (Rosen & Lyons, 2020). The reports appear to be hidden within technicalities, making it difficult for the general public to access easily. This has been the strategy of Meta to avoid transparency reports from the eyes of the public. 2022 reports from the 'Internet Freedom Foundation' too highlighted the deficiencies in social media

companies' compliance, indicating a lack of effort from both the social and digital media platforms as well as the authority to enhance "transparency and accountability in platform governance" (Mishra, 2022).

Facebook and X: Trends in Data Removal Practices

In the case of company X addressed 40 grievances concerning appeals for account suspensions, resolving all with appropriate responses (X, 2024). Among these, nine account suspensions were reversed following review, while the rest remained in effect. The company has not provided details for reversal of suspension and whether the government requested for banning these accounts or if it was received from the public. The company received 19 inquiries related to general account matters during the reporting period by the government. In contrast, Meta emphasized its engagement with user concerns in January 2024, highlighting its receipt of "29,548 reports through the Indian grievance mechanism" (Meta, 2024). According to Meta, it provides users a proactive approach empowering with various tools, facilitating issue resolution. These tools include established channels for reporting content violations, self-remediation flows for data downloads, and avenues for addressing account hacking incidents, as outlined in its monthly compliance report aligning with the IT rules. Meta refrained from disclosing specific details beyond numerical figures, describing the removal of objectionable content across its networks, including Facebook, Instagram, and WhatsApp. Regarding the 8,488 issues requiring specialized review, Meta indicated that it has assessed content according to its policies and acted on 4,632 complaints. 3,856 grievances underwent review without necessarily resulting in action, according to Meta's report. Similarly, Meta took action as per its policy standard subject to the degree of violation and subsequently removed data after issuing warnings. Meta showcased its dedication to upholding platform standards. As per its data report dating December 2023, Meta had removed more than 19.8 million pieces of content from Facebook across 13 policies (Meta, 2024).

Censorship Concerns: Data Removal on X and Facebook

The data removal of the users, which includes the verified social media accounts on X and Facebook of the working journalists from prominent news organizations, have been facing an impact from the newly introduced IGDMEC. X received 361 requests for information removal affecting 199 verified journalist accounts across the world in 2021 and notably, India accounted for 128 of such requests (Hegde, 2021), but this time both the companies have not spoken anything on this.

Table: I

Request made by Grievance officials from India to X (2021, 2022, 2023)		
Period	Total no. of grievance made	URL Removed/Actioned
Jan-June 2023	1,058	3,008
Jul-Dec 2022	2135	541
Jan - Jun 2022	6013	4975
Jul - Dec 2021	3261	2990

Note: X issues a report monthly, but it has been compiled six monthly to align with Facebook's reporting schedule for smooth analysis and discussion. Source: https://transparency.x.com/en/reports/countries/in.html

Table: II

Request made by Grievance official in India to Facebook (2021, 2022, 2023)					
Period	Total requests	Legal process requests	Emergency disclosure requests	Users/accounts requested	Of requests where some data produced

Jan-June 2023	70,612	63,586	7,026	119,049	68.72%
Jul-Dec 2022	63,852	58,681	5,171	106,856	68.26%
Jan - Jun 2022	55,497	51,602	3,895	91,159	66.59%
Jul - Dec 2021	50,382	47,123	3,259	81,501	63.61%

Source: https://www.meta.com

When examining the data requests made to Facebook by the Indian government, it becomes apparent that during the period from January to June 2023, a total of 70,612 requests were made to the platform. Of these, 63,586 requests were made through legal processes, while 7,026 were classified as emergency disclosure requests. The number of users/accounts requested during this period amounted to 119,049. Notably, the company responded by producing data for 68.72% of the requests received. In the preceding six-month period from July to December 2022, there were 63,852 total requests, comprising 5,171 emergency disclosure requests and 58,681 legal process requests. The number of users/accounts requested during this time stood at 106,856, with data produced for 68.26% of the requests. Looking further back, from January to June 2022, the platform received 55,497 requests, consisting of 51,602 legal process requests and 3,895 emergency disclosure requests. The number of users/accounts requested was 91,159, with data produced for 66.59% of the requests.

Similarly, from July to December 2021, there were 50,382 total requests, including 47,123 requests for legal process and 3,259 requests for emergency disclosure. The number of users/accounts requested during this period was 81,501, with data produced for 63.61% of the requests. While the number of requests has increased over time, it remains unclear what kinds of information the government has asked to be removed and the reasons behind these requests.

The data from 2021 to 2023 highlights significant increases in the number of requests made by Indian officials to Facebook, spanning legal processes and emergency disclosures. The trends suggest an evolving and growing reliance on Facebook for crucial data in legal and emergency contexts, coupled with improved compliance and responsiveness by the platform.

In the case of X(formerly Twitter), the analysis of grievance requests made by Indian officials to the tech giant from 2021 to 2023 reveals significant variations in both grievances filed and total number of URLs removed or actioned. The first half of 2022 saw the highest number of grievances, with 6,013 requests. This peak could be attributed to heightened scrutiny or specific incidents that prompted more complaints. In the second half of the year 2022, a notable decrease in the number of grievances observed. On the other hand an even further decline in the first half of 2023 (1,058). This downward trend might suggest either an improvement in the platform's content moderation or a shift in the grievance reporting mechanism.

The number of URLs removed or actioned peaked in Jan - Jun 2022 (4,975) and then significantly dropped in Jul - Dec 2022 (541). This drastic reduction indicates a possible change in X's content review policy or operational capacity during this period. The first half of 2023 saw a rebound with 3,008 URLs actioned, despite the lower number of grievances (1,058). This suggests a more proactive or efficient approach to addressing grievances, possibly clearing a backlog or implementing more stringent review processes. The sharp decline in actions during the second half of 2022, despite a significant number of grievances, might indicate a policy shift or changes in the criteria for actioning URLs. It could also reflect operational challenges or resource constraints faced by X. The significant number of URLs actioned in the first half of 2023, compared to the relatively low number of grievances, suggests a more proactive stance by X. This could be due to enhanced monitoring tools, changes in policy to preemptively remove harmful content, or a concerted effort to address pending grievances from previous periods.

Comparative Analysis:

The comparative analysis of grievance requests made by Indian officials to X and Facebook from 2021 to 2023 reveals distinct trends and practices between the two platforms. While X shows variability in handling grievances, Facebook demonstrates a steady increase in requests and an improvement in response rates.
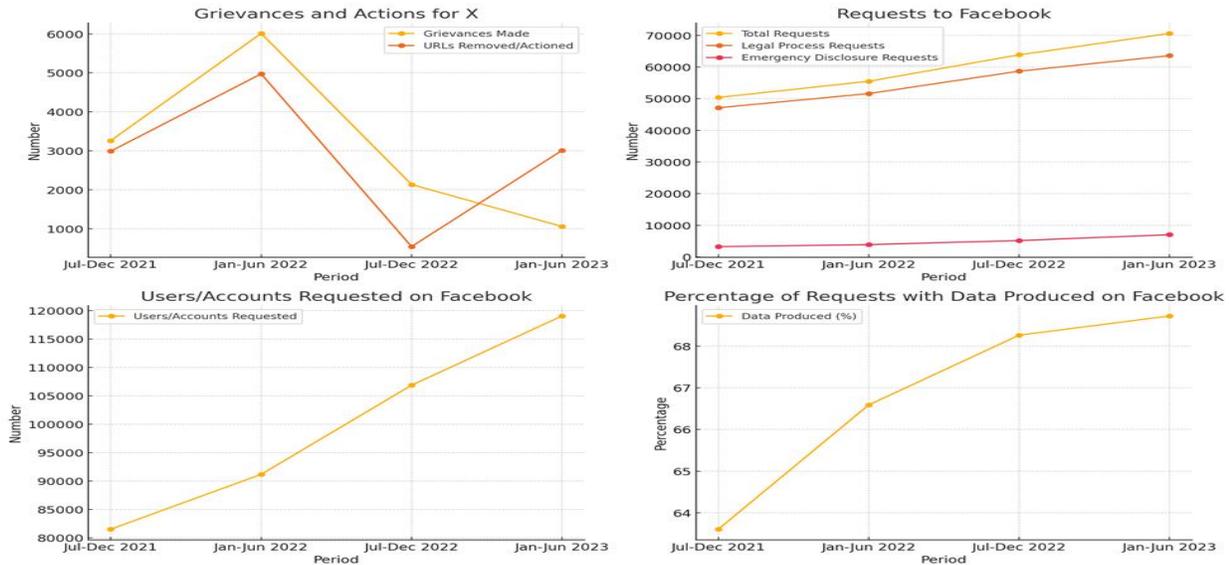

Fig. 1: Grievance Requests to X and Facebook from Indian Officials (2021-2023)

Trends in Total Requests and number of grievances made to X shows significant fluctuations. The highest number of grievances (6,013) occurred in Jan - Jun 2022, while the lowest (1,058) occurred in Jan - Jun 2023. On the other hand the total requests to Facebook show a steady increase over the periods, from 50,382 in Jul - Dec 2021 to 70,612 in Jan - Jun 2023.

In terms of trends in Actions Taken/Response Rates X has shown the variability in number of URLs removed/actioned. The highest action rate was in Jan - Jun 2022 (4,975), while the lowest was in July - Dec 2022 (541). This suggests inconsistent responsiveness or changes in policy. In the case of Facebook the percentage of requests where some data was produced steadily increased from 63.61% in Jul - Dec 2021 to 68.72% in Jan - Jun 2023, indicating a consistent improvement in response rates.

Legal and Emergency Requests to Facebook constitute the majority of total requests to Facebook, consistently making up over 90% of the total requests. Emergency disclosure requests, while smaller in number, show an increasing trend, more than doubling from 3,259 in July - Dec 2021 to 7,026 in Jan - Jun 2023. Users/Accounts Requested to Facebook also follows an upward trend, from 81,501 in July - Dec 2021 to 119,049 in Jan - Jun 2023, indicating a broader scope of investigation over time.

Conclusions:

Changes in IT regulations by the government of India and the pressure from the implementing agencies have influenced the number of grievances filed and the responsiveness of X in removing or actioning content. The media model developed by Krishna Sankar Kusuma in 2018 "Media, Technology and Protest in Society" was an early depiction of the emerging phenomenon of the need for amendments in the IT act for the scrutinizing of social media content without harming the public access to freedom of expression and access (Kusuma 2018).

Ensuring consistency in the criteria and processes for actioning grievances is crucial. Increased transparency in how grievances are handled can build trust among users and regulatory bodies. Collaborating closely with

regulatory authorities, user communities, and other stakeholders play a vital role in understanding the main reasons for grievances and in preparing more effective content moderation methodologies.

Not only in India but globally the trend has emerged to streamline the technology conglomerates. In the interest of the nation and individual users it is important to put a curb on the unwanted communication which goes against the basic components of the Indian constitution. Though the danger of hampering the media freedom as well right to speech might also affect at times, it is important to review case by case to help in evolving a democratic code of ethics for digital communication. The use of advanced AI tools in content moderation and removal would significantly help in improving online safety by swiftly identifying and removing harmful or inappropriate content, thereby fostering a healthier digital environment for users of all ages.

Both the companies have not provided data removal related to journalists in India in their latest (January-March, 2024) reports. Both Meta and X are removing data without clear-cut transparency norms not mentioning the reasons for removing such journalistic data. This lack of transparency presents a significant challenge in regulating content and ensuring freedom of speech and expression on the internet.

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