SC Calls for Regulating Social Media

Source: TH

Why in News?

The **Supreme Court (SC),** while hearing a **case against comedians for derogatory remarks**, observed that **social media influencers commercialise free speech**, cautioning that such content can **harm the dignity of vulnerable groups** and urging the government to frame **effective guidelines** to balance free speech with societal sensitivities.

Key Observations & Recommendations of SC

- **Key Observations:**
    - **Commercialisation & Accountability**: Social media influencers **monetise free speech**, often creating an overlap with **prohibited speech**. The Court cautioned that such expression cannot be used as a **shield** to target **vulnerable groups** (disabled, women, children, minorities, senior citizens).
    - **Humour vs. Dignity**: While **humour is vital**, **derogatory jokes** and **insensitive remarks** perpetuate **stigma**, **discrimination**, and undermine the **constitutional mandate of inclusivity** by "smashing" the goal of mainstreaming disadvantaged sections.
    - **Clear Boundaries in Digital Space**: The Court emphasised the need to delineate **free speech, commercial speech, and prohibited speech**, as **irresponsible online remarks** erode **dignity**, **social harmony**, and **community trust**.
- **Recommendations:**
    - **Guidelines with Consequences**: Directed the Union Government (in consultation with the **National Broadcasters and Digital Association**) to frame **regulatory guidelines** for influencers/podcasters with **proportionate and enforceable consequences**, avoiding "empty formalities."
    - **Sensitisation & Responsibility**: Stressed the importance of **awareness**, **sensitisation**, and **digital ethics** among social media users, while ensuring **accountability** of violators for societal harm.
    - **Apology & Balance of Rights**: Ordered influencers to issue **unconditional apologies** via their platforms, clarifying that the Court does not seek to **curtail free speech** but to **balance liberty with dignity**, protecting **community rights** in a diverse society.

What are the Key Regulations Governing Social Media Usage in India?

Key Legislations:

- **Information Technology Act, 2000** is the **principal legislation** governing electronic communication and social media.
    - **Section 79(1)** provides **"safe harbour" protection to intermediaries** (e.g., Facebook, X, Instagram) against **liability for third-party content,** provided they act as neutral platforms and do not control or modify content.
    - **Section 69A of the IT Act, 2000** allows the Government to **block online content** for protecting **sovereignty, security, defense, foreign relations, public order**, and preventing **incitement to offences**.
- **Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021** mandates social-media platforms to ensure **user safety**, removal of **unlawful content**, and awareness on issues such as **privacy, copyright, defamation, and national security**.
    - The **2023 Amendment** to these rules **obligated intermediaries** to take down **false or misleading content related to the Government of India**. However, its enforcement has been stayed by the **Supreme Court (SC)**, citing concerns of misuse.

Key Judicial Pronouncements:

- In *Shreya Singhal v. Union of India (2015)*, SC struck down Section 66A of the IT Act, 2000 for vagueness, reaffirming that criticism, satire, and dissent are protected under Article 19(1)(a), unless falling within reasonable restrictions under Article 19(2).
    - **Section 66A criminalized sending offensive, false, or objectionable information via computers or electronic devices**, prescribing up to **3 years' imprisonment**.
- **In *K.S. Puttaswamy v. Union of India (2017)*, SC recognised **privacy as a fundamental right** under **Article 21**.
    - It shaped later data protection measures, including the **Digital Personal Data Protection Act, 2023**, and influenced regulation of **WhatsApp privacy policies** and **Aadhaar data norms**.

Why is there a Need for Regulating Social Media?

- **Protection of Vulnerable Groups** Unregulated platforms enable **derogatory content, cyberbullying, trolling, and exploitation**, particularly of **women, children, senior citizens, minorities, and persons with disabilities**.
- **Curbing Misinformation & Hate Speech:** The rapid spread of **fake news, deepfakes, hate campaigns, and extremist propaganda** undermines **social harmony, democratic discourse, and national security**.
    - Effective regulation can check **disinformation ecosystems** and maintain **public order**.
- **Safeguarding Mental Health & Ethical Values:** Features like **endless scrolling, Fear of Missing Out (FOMO), and curated identities** drive **addiction, anxiety, and depression** among youth.
    - Regulations can promote **digital well-being**, responsible design, and **ethical communication standards**.
- **Ensuring Accountability of Influencers:** With the rise of **influencer marketing**, users are misled into financial risks by **undisclosed paid promotions** and **illegitimate products** (e.g., betting apps). Regulation ensures **transparency, disclosure norms, and consumer protection**.
- **Data Privacy & Security:** Social media platforms collect vast user data, often without informed consent, leading to **privacy violations, surveillance, and misuse for profit or political influence**. Regulation is essential to uphold **constitutional rights to privacy** under **Article 21**.
- **Balancing Free Speech with Responsibility:** While **Article 19(1)(a)** protects free speech, it is

subject to **reasonable restrictions under Article 19(2)** (public order, morality, decency, security of the State). Regulation helps draw the line between **legitimate free expression** and **harmful/derogatory content**.

What are the Key Challenges in Regulating Social Media in India?

- **Volume & Anonymity:** The **sheer volume of online content** makes continuous monitoring difficult. Added to this, **anonymity of users** emboldens hate speech, misinformation, and harmful content, straining regulatory capacity.
- **Transparency & Accountability Gaps:** Social media platforms lack **transparency in decision-making** and **accountability in content moderation policies**. The **absence of independent oversight** raises concerns about opaque practices and arbitrariness.
- **Defining Harmful Content:** There is **subjectivity in defining harmful content**, as differing social, political, and cultural views complicate consensus. This ambiguity creates **grey zones** between legitimate expression and prohibited speech.
- **Free Speech vs. Censorship:** Any attempt to regulate risks being seen as **censorship** or a **curtailment of free speech**, especially when criteria are not **clear, objective, and proportionate**.
- **Cross-Border Jurisdictional Issues:** A large share of harmful content originates from **outside India's jurisdiction**, making enforcement and regulation difficult under domestic law.
- **Political Neutrality Concerns:** Content moderation decisions are often accused of **political bias**, raising questions about **platform neutrality** and undermining trust in regulatory mechanisms.

What Measures Can be Taken to Improve the Credibility and Utility of Social Media in India?

- **Robust Legal-Policy Framework**: Update the IT Act, 2000 through the **Digital India Act**, ensuring platform accountability, **data protection**, and **freedom of expression**, backed by **judicial oversight** to avoid overreach.
- **Algorithmic Transparency & Accountability**: Mandate **algorithm audits**, **transparency reports**, and independent oversight bodies; encourage the use of **AI-driven moderation tools** to ensure neutrality and quick redressal.
- **Technological & Institutional Capacity**: Expand **cyber forensic labs**, enhance agency capacity, and integrate **AI-enabled monitoring systems** while safeguarding **privacy and encryption standards**.
- **Digital Literacy & Ethical Usage**: Launch nationwide **digital literacy campaigns** against misinformation, deepfakes, and cyberbullying; promote **responsible online behavior** and **ethical design practices** prioritizing user well-being.
- **Global & Multi-Stakeholder Cooperation**: Strengthen **international collaboration** on cross-border regulation and involve **civil society, academia, and industry** to create an inclusive, **future-ready digital ecosystem**.

Conclusion

Regulating social media is essential to balance **freedom of expression** with the **dignity and rights of vulnerable groups**. A combination of **robust legal frameworks, technological solutions, digital literacy, and ethical practices** can ensure accountability, curb misinformation, and foster a **safe, inclusive, and credible online ecosystem**.

Drishti Mains Question:

Discuss the challenges in regulating social media platforms in India, considering the balance between freedom of expression, privacy concerns, and the need for accountability.

UPSC Civil Services Examination Previous Year Question:

Mains

Q. What are social networking sites and what security implications do these sites present? (2013)

Q. Child cuddling is now being replaced by mobile phones. Discuss its impact on the socialization of children. (2023)