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Draft IT Rules Issued by Government

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The government has released proposed amendments to the Information Technology (IT) Act for public comments to replace the rules notified in 2011.

- The aim of the rules is to make social media and internet companies, that have over 50 lakh users, more accountable for the content on their platforms.
- The proposed amendments seek to curb “unlawful content” on social media and make it mandatory for platforms such as WhatsApp, Facebook, and Twitter to trace “originator” of “unlawful” information.

Need for Rules

- The **Information Technology Act (IT Act), 2000** was enacted to give a fillip to electronic transactions, to provide legal recognition for e-commerce and e-transactions, to facilitate e-governance, to prevent computer-based crimes and ensure security practices and procedures.
- Section 79(2)(c) of the IT Act mentions that intermediaries must observe due diligence while discharging their duties, and also observe such other guidelines as prescribed by the Central Government. Accordingly, the **Information Technology (Intermediaries Guidelines) Rules, 2011 were notified in April 2011.**
- Recently, India has seen a rise in the **number of lynching incidents in 2018** mostly due to fake news being circulated through Whatsapp and other social media sites.
- Social media has brought new challenges for the law enforcement agencies, including inducement for the recruitment of terrorists, circulation of obscene content, the spread of disharmony and incitement to violence.

The Information Technology [Intermediaries Guidelines (Amendment) Rules] 2018

- Social media intermediaries should publish rules, privacy policy to **stop users from engaging in online material which is paedophilic, pornographic, hateful, racially and ethnically objectionable, invasive of privacy, etc.**
- The online intermediaries should **provide information or assistance within 72 hours** when asked by any government agency for reasons of State security, cyber security, investigation, detection, prosecution or prevention of offenses.
 - These offenses may include mob violence, lynching, online sexual abuse, etc.
 - The **“originator of the information” can be traced to register an FIR.**
- The social media intermediaries should take all reasonable **measures to protect individual privacy** as required under the Information Technology Rules of 2011.
- The online intermediaries should **appoint in India, a nodal person of contact for 24X7 coordination with law enforcement agencies** and ensure compliance with their orders.
- Online Intermediaries should **remove or disable access to unlawful content, within 24 hours**, relating to Article 19(2) of the constitution of India such as in the “interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offense.”
 - The intermediary is also expected to **preserve such information and associated records for at least 180 days for investigation purposes.**
- The intermediary should deploy **technology based automated tools for identifying and removing or disabling public access to unlawful information or contents.**
- The intermediary should **report cybersecurity incidents with the Indian Computer Emergency Response Team.**
- On their website, the intermediary should publish the name of the **Grievance Officer and his contact details** and the mechanism by which users or any **victim who suffers can notify their complaints against such usage.**

Supreme Court Orders

- These draft rules are in line with various judgments given by the Supreme Court (SC) to deal with malicious online content.
- In July 2018 judgment in the **Tehseen S. Poonawalla case**, the SC gave the government full freedom to stop/curb dissemination of “irresponsible and explosive messages on various social media platforms, which have a tendency to incite mob violence and lynching of any kind.”
- In December 2018 in **Re: Prajwala Letter case**, the SC ordered the government to frame the necessary guidelines/Standard Operating Procedure (SOP) and implement them to “eliminate child pornography, rape and gang rape imagery, videos, and sites in content hosting platforms and other applications”.

Concerns

The draft rules have been criticized for expanding the **scope for state surveillance of citizens.**

Internet/Online Intermediary

- An internet intermediary is an entity which provides services that enable people to use the internet.
- There are different kinds of internet intermediaries which fall into two categories: “conduits” and “hosts”.
- “Conduits” are technical providers of internet access or transmission services. “Hosts” are providers of content services – for instance, online platforms and storage services.