



TikTok App Ban Case

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This editorial is based on the article 'Why the TikTok ban is worrying' which appeared in "The Hindustan Times" on 2nd May, 2019. The article talks about why we need to debate and discuss the TikTok ban.

Any kind of 'ban' on social media, books or movies etc. should trigger a debate and discussion on its necessity and legality. The recent ban on TikTok and its subsequent withdrawal requires a similar debate. Here we should keep in mind India's social system which is very different from countries like the UK or USA where freedom of speech is held supreme. In contrast, our Constitution provides us with freedoms but also gives us its limitations and Indian citizens are bound to act within these limitations.

What made the news?

The Madras High Court had issued an interim ban on TikTok after it found that the platform hosted pornographic content.

- The Court mentioned that it was worried about the content affecting children and until a conclusion was reached, the Court issued a temporary ban on the app.
- In response, Ministry of Electronics and Information Technology (MeitY) issued an order to Google and Apple to remove the app from the official app stores. The government followed the court's order.

When the matter was raised before the Supreme Court, it carried out a hearing on April 22 where it asked the Madras High Court to take a decision on the interim ban till April 24. The Supreme Court said that the ban would stay lifted if the High Court didn't take any decision. Additionally, the Supreme Court didn't pass any judgement on the matter.

Finally, the Madras High Court removed the interim ban as the bench stated that it was only interested in protecting children from cybercriminals. While the interim ban has been removed from the app, the case is still undergoing. The Court has only

removed the interim ban for the time being. If the case demands, the app may be banned once again.

TikTok claimed that it complies with local laws and ensures that it doesn't promote objectionable and illegal content on its platform.

- TikTok said it removed six million videos that violated TikTok's Community Guidelines.
- It also says that their moderation team is based in over 20 countries and regions including India, and covers 15 major Indian languages, including Hindi, Tamil, Telugu, Bengali, Gujarati and more.

In March 2019, Facebook, WhatsApp, Google, Twitter, Share-Chat and ByteDance (owner of TikTok) agreed to India's 'first voluntary code' on taking down 'problematic content' and to bring 'transparency in political advertising'.

The Short Gist

TikTok is a two-sided platform with users and advertisers as the two sides.

- It derives its revenues from advertisements and other in-app purchases by the user, although the use of the app itself requires no payment.
- **Although the user pays nothing for downloading and using the app, in such cases they themselves become the product by virtue of surrendering their data and their eyeballs for advertisements.**
- The key would therefore be to regulate this transaction (between advertisers and users) to ensure that TikTok has the right incentives to build safeguards and innovate.

The Court gave three directions while passing its ban order

- The first direction **prohibits the download of the application;**
- The second **prohibits the televised telecast of videos created through the app;**
- The third directs a **response from the Union Government** on its position to legislate a statute analogous to the **Children Online Privacy Protection Act** (COPPA) enacted by the United States, to prevent children from becoming cyber/online victims.

The Internet & Mobile Association of India (IAMAI) said content moderation on user-generated content platforms has been a problem about which the platforms themselves are keenly aware and have taken effective measures in recent months to curb the excesses.

It also pointed out that social media platforms in the country have adopted the Code of Ethics with the Election Commission.

Content moderation on user-generated platforms is an industry-wide challenge that social-media companies take very seriously, and are constantly addressing with ever-improving mechanisms along with enhanced safety features such as increased privacy settings, in-app reporting, comments filter, content filter for younger users, in-app access to Community Guidelines, online safety resources and more.

Various Opinions

Any "arbitrary" ban on social media platforms and intermediaries could **impede foreign direct investment** and affect **expansion of the digital India** initiative, the industry body of Internet and mobile device companies.

Legal experts who expect scrutiny over digital platforms to only increase say that such regulations must focus on removing illegal content as against removing the app completely.

'There is definitely more talk worldwide about regulating digital platforms and making them more accountable, however, it is important to keep in mind that they are not liable legally for actions of their users'.

Section 79 of the Indian Information Technology Act, 2000 exempts intermediaries from liability for obscene and illegal content, as long as they do not play any part in creation of content.

- Such bans dilute or even to some extent negate the **safe harbour provisions (Sec 79, IT Act 2000)** currently contained in the IT Act and its Rules, and make it impossible for companies to operate in the country. Especially affected would be the social media platforms which allow citizens to express themselves freely.
- According to the IAMAI, dilution of the Safe Harbour protection available to intermediaries/social media platforms undermines the steady growth of India's digital economy and especially impacts the thriving startup ecosystem in the country.

Researchers examining cases at the intersection of internet freedom and privacy are of the view that the recent debates around the accountability of intermediaries like TikTok, PUBG, Facebook and Instagram have been occasioned by spread of inappropriate content on these platforms.

- Because the content could be obscene in many instances, the intermediaries are being brought under the purview (of the law) now.
- This is, however, not regulated by any legislation currently.

To Conclude

Social media, content and gaming apps are grappling for a way to deal with heightened regulatory scrutiny as courts worldover step in to stem the flood of objectionable content on these platforms. India being one of the world's fastest-growing internet market is witnessing nothing different.

Two examples of regulation

- Australia passed a law that will make social media companies liable for fines up to 10% of profits or the arrest of its executives and jail terms of up to three years, if companies fail to remove "abhorrent violent material" from their platforms.
- Singapore has drafted a law that could make internet and social media companies pay fines of up to S\$1 million and jail of up to six years for officials who do not comply in removing fake news on their platforms. It also mandates those who spread fake news to file a correction online.

As India debates the contours of a proposed data law and awaits clarity on amendments to intermediary guidelines for technology platforms, those concerned about the potentially harmful effects of certain content on these apps are turning to the courts for redressal.

The courts are filling a vacuum and there will be a vacuum until new laws are finalised.

The proposed data protection law drafted by Justice BN Srikrishna Committee has prohibited technology companies from profiling, tracking, behavioural monitoring or advertising directed at children. The draft also proposed parental consent to sign up for apps.

On the other hand, voicing concerns against outright bans, the **Internet Freedom Foundation** (IFF), an Indian digital liberties organisation is **arguing against outright bans on applications** saying that banning "provide no resolve" and that Courts should "consider alternative measures". IFF has also requested MeitY to adopt a "rights respecting stand against app bans, commence a transparent consultation process and activate the defunct Cyber Regulations Advisory Committee, which was tasked with providing subject matter expertise to the government on issues related to the use of technology".

IFF has observed that despite citizen concerns over digital freedom, governments worldwide are moving towards greater regulatory control over content platforms and companies such as Facebook, Google-owned YouTube as well as Chinese apps such as TikTok and Bigo Live will face even more regulatory scrutiny in future.

What makes this topic important for UPSC?

In the 2017 GS I paper, the following question was asked: "The growth of cities as I.T. hubs has opened up new avenues of employment but has also created new problems. Substantiate this statement with examples."

To answer this question properly, aspirants will have to not only display a great level of understanding of the issue but also cite examples drawn from everyday life. This therefore requires a holistic approach at understanding technology and the socio-economic issues associated with it. The topic we have discussed today also needs a holistic understanding and therefore extending reading. We have covered certain topics of interest on the website which can be found by searching for **Social Media (You may click here to find these articles)** - please go through these articles once to improve your understanding of the social media related issues.

Drishti Input

"The growth of social media has opened up new avenues of expression but has also created new social problems. Substantiate this statement with examples." [250 Words]