

Government vs Social Media Platforms on Safe Harbour Doctrine

July 18, 2025 • vajiramandravi.com



Safe Harbour Doctrine Latest News

- The Centre defended before the Karnataka High Court its expanded use of **Section 79 of the Information Technology (IT) Act** (which provides for safe harbour doctrine) and the **Sahyog Portal** to regulate and remove online content by intermediaries such as social media platforms.
- The case stems from a legal challenge filed by social media platform X (formerly Twitter) against **alleged government overreach** in content takedown mechanisms.

Legal Framework and the Challenge

- **Section 79 vs Section 69A of the IT Act:**
 - **Section 79:** Provides “safe harbour” to intermediaries protecting them from liability for third-party content, but this is withdrawn if intermediaries do not comply with takedown notices.

- **Section 69A:** Grants power to block content only on specific grounds (e.g. national security, public order), backed by procedural safeguards under the IT (Procedure and Safeguards for Blocking Access of Information by Public) Rules, 2009.
- **X's argument:** The government is **misusing Section 79** to issue blocking orders which are only permitted under Section 69A; **Sahyog Portal** is termed a “**censorship portal**.”

The Sahyog Portal and Government's Justification

- **Purpose and scope of Sahyog Portal:**
 - Developed under **I4C** (Indian Cyber Crime Coordination Centre) of the Union Home Ministry.
 - As of March 2025, **38 intermediaries** including Google, Amazon, Apple, Telegram, YouTube onboarded; Meta enabled API access.
 - X has refused onboarding, citing legal overreach.
- **Government's stand:**
 - **Algorithmic content curation** is distinct from traditional editorial control, hence needs new regulation.
 - **Algorithms amplify harmful content** rapidly without oversight, unlike editors in newspapers or TV.
 - **Anonymity and pseudonymity** on platforms increase incitement risks and shield accountability.
 - Thus, **a wider net under Section 79 is essential** to tackle a broad class of ‘unlawful content’ beyond what is specified in Section 69A.

Algorithmic Curation vs Traditional Media

- **Key government arguments:**
 - **Algorithms automatically boost** certain content to a wider audience—this lacks any editorial discretion.
 - **No transparency or accountability** in algorithmic decision-making.
 - **Traditional media** had **built-in gatekeeping** functions, ensuring a certain quality control.

Constitutional Perspective and Societal Impact

- **Free speech vs reasonable restrictions:**
 - Section 69A deals only with content that falls under **Article 19(2)** i.e., reasonable restrictions to free speech.
 - The government argues that Section 79 enables actions beyond this scope **to address all unlawful content under any law**.
 - Emphasis placed on **balancing freedom of expression with the right of society and state** to prevent harm, maintain public order, and ensure national security.

Conclusion

- The Centre is asserting its regulatory authority over digital intermediaries through an expanded interpretation of Section 79, citing the unique risks of algorithmic amplification and anonymity.
- The case is **a significant legal milestone** in defining the contours of safe harbour doctrine, online free speech, platform responsibility, and the role of the State in digital governance.

Source: IE

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