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# Digital Censorship Curbing Free Speech

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MONIKA SHARMA<sup>1</sup>

*“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”*

- United Nations, Universal Declaration of Human Rights

## ABSTRACT

*In India’s booming digital age, where social media fuels revolutions and smartphones amplify marginalized voices, a silent battle rages between free expression and state control. This research paper examines how digital censorship—often disguised as public protection—is reshaping democracy in the world’s largest internet market. Through legal analysis, case studies, and grassroots perspectives, it reveals the human cost of India’s tightening grip on online speech.*

*The study begins by framing India’s unique dilemma: a constitution that guarantees free speech now contends with internet shutdowns that last longer than anywhere else globally, opaque content takedowns, and the chilling effect of arrests for social media posts. It dissects the legal machinery enabling this censorship, from colonial-era sedition laws to modern IT Act provisions that let officials disappear content with a single order—no questions asked.*

*But this isn’t just about laws. It’s about students jailed for memes, journalists whose investigative reports vanish before going viral, and entire communities cut off from the internet during protests. The paper contrasts the government’s security arguments—preventing riots, fake news, and terrorism—with documented cases where censorship disproportionately targets dissent. When does regulation become repression? Who decides what “harmful” speech is—and at what cost to democracy?*

*Ultimately, this research challenges India to confront an uncomfortable truth: without transparency, judicial safeguards, and public accountability, digital censorship risks becoming the greatest threat to the very democracy it claims to protect. The findings urge a recalibration—one that safeguards both national security and the fundamental right to question, criticize, and imagine alternatives.*

## I. INTRODUCTION

India, happens to be the world’s largest democracy which is rapidly developing at par with the

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west. The world that we are living in today is a digital world, the technological boom and the advancement in information technology has made the life easier and at the same time a bit more complicated than it used to be. Amazingly, The Internet and Mobile Association of India (IAMAI) has recently predicted that the number of Active Internet users in India will reach a whopping 900 Million by the year 2025.<sup>2</sup> Today with the advent of OTT (Over The Top) Platforms like Netflix, Amazon, prime etc, entertainment is at fingertips. Further, Social Media Platforms like Facebook, Twitter, Instagram etc, have become an inevitable part of everyone's lives. These platforms, to say in simple words has made freedom of speech and expression more accessible to the beneficiaries i.e the Citizens than ever. The Constitution of India provides the citizens with the freedom of speech and expression<sup>3</sup> as provided under Article 19(1)(a), although Article 19 (2) puts reasonable restriction on the use of this right, this freedom happens to be the most important and ironically the most abused freedom that exists. We are living in an age where the fine lines between constructive criticism and 'hate speech' are beginning to blur, one starts to wonder whether we truly have the right to exercise our freedom of speech and expression. The digital era has brought with it numerous benefits, but that does not mean it has not also brought with it its fair share of problems. Different countries are attempting to address issues such as accountability and traceability without invading one's privacy in the digital pacific through a variety of laws, including the use of artificial intelligence tools aimed at regulating the digital world, though some questions remain unanswered due to the dynamic and constantly evolving nature of the internet.

The most critical question that comes before us is ; whether censorship of digital content over social media or Internet in general the need of the hour and if yes how will it affect the right to freedom of speech and expression of citizen? Will such a censorship come under the province of reasonable restrictions or not? It is Important to note that Internet is the world's largest public platform, and it is used for a variety of purposes such as data and information sharing, business transactions, and so on. It serves as a global platform for various networks. With so many different opportunities and information available on a single platform, their misuse is an obvious concern. The concept of Digital censorship or Internet Censorship was introduced to prevent misuse. Control and/or suppression of what can be accessed, viewed, and published on the internet is referred to as internet censorship.

India is a country woefully where Laws are often misinterpreted in order to misuse and abuse,

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<sup>2</sup> Active internet users in India likely to reach 900 mn by 2025: IAMAI Available at [https://www.business-standard.com/article/technology/active-internet-users-in-india-likely-to-reach-900-mn-by-2025-iamai-121060300710\\_1.html](https://www.business-standard.com/article/technology/active-internet-users-in-india-likely-to-reach-900-mn-by-2025-iamai-121060300710_1.html)

<sup>3</sup> Constitution Of India 1950, Article 19 (1)(a)

Digital Censorship may prove be one such regulation as well. Not allowing expression over Internet platforms may violate the right to freedom of speech and expression and its pertinent to note that freedom of speech and expression is the most important fundamental freedom because the freedom of speech and expression serves four broad social purposes:<sup>4</sup>

1. It assists an individual in achieving self-fulfilment;
2. It aids in the discovery of truth;
3. It enhances an individual's ability to participate in decision making; and
4. It offers a way by which a reasonable balance between stability and social change can be established.

Furthermore, We can do almost anything on the internet, from playing to learning, but it also paves the way for several social vices such as child pornography, fake news, cyber bullying, and so on, so censorship on the internet is used to combat these evils. However, history has shown that whenever the term "censorship" is used, the phrase "Freedom of Speech" intervenes to regulate it and remove arbitrary censorship. Hence, It becomes really important to protect the citizen's Right to Freedom Of speech and Expression and at the same time also make sure that constructive censorship happens and it doesn't infringes upon the rights of people and organisations.

### **Statement of Problem**

The research aims to study the effect of censorship of content on Digital Media i.e The Internet and how censorship of content of Internet platforms like Facebook, Twitter, Netflix etc. violates the Right to Freedom of Speech and Expression as guaranteed under Article 19 (1)(a) of The Constitution Of India. With the Advent of cyber space, Social Media and Over the top platforms, Citizens have an easily accessible platform of expression. The Governmental Control over these platforms although is sometimes used as a means to abuse the rights of the citizens. Free Speech on digital space is inevitable and at the same time censorship is inevitable, all that's the need of the hour is to keep over censorship under check.

### **What is Censorship?**

The term censor was first used in the ancient Roman Empire.<sup>5</sup> Censere is a Latin term which means to scrutinise, value, or make a judgment, according to the Etymological Dictionary.<sup>6</sup>

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<sup>4</sup> Indian Express Newspapers (Bombay) Private Ltd. And Ors. v. Union of India (UOI) and Ors (1986) SCC (1) 259, Sakal Papers (P) Ltd. V. Union Of India AIR 1962SC 305

<sup>5</sup> Meaning Of Censor, Available at <https://www.dictionary.com/browse/censor>

<sup>6</sup> Censure, Available at <https://www.etymonline.com/word/censure>

Censorship was an official business, and censor was a designation given to a Roman public official. As it is commonly understood Censorship is the suppression or prohibition of any parts of books, films, or news that are regarded abhorrent by established moral and decency norms, politically untenable, or likely to harm national security. Similarly, Digital or Internet censorship is the vilification or prohibition of any information on the web that is perceived detrimental, objectionable, endangering religious sentiments or public security, etc. That's the act of prohibiting or restricting some or all digital content from being posted online, viewed, or accessed. Governments, private sectors, and individuals with a prevalent goal of controlling what people could read and publish on the Internet These Days can all incorporate this ban. Some countries impose decisive censorship, while others have strict policies against illegal internet posting, and still others are somewhat lenient when it comes to viral content.

Censorship is a present-day necessary requirement. It is a reasonable act of suppression or control over the freedom of expression protected by our constitution<sup>7</sup>. However, various governments have abused their censorship power in order to further their policy objectives. The arbitrary use of power has violated the people's fundamental right to free expression. As a result, the third pillar of democracy, the media, has become dysfunctional.

## **II. CENSORSHIP IN INDIA**

Internet always has been a information source for the wider populace. They have a diverse variety of materials and draw attention to the content that would otherwise be hidden. These films and television series have always been an excellent way to communicate a message or an ideology to the common people. We now have OTT platforms to keep us informed and entertained, from street drama to motion pictures, colour films, television channels, cassettes, and DVDs. However, the public exhibition of films is regulated by the Centre Board of Film Certification (Censor Board), which was established under the Cinematographic Act of 1952. According to this Act, a film or any portion of it may not be certified for public screening if the board believes that the film or any portion of it is harmful to the public's interests. Enforcing a 'decency and morality' clause limits freedom of expression and speech.<sup>8</sup> Furthermore, Censorship was challenged before the Supreme Court in the case of K.A. Abbas vs. Union of India <sup>9</sup>where the constitutional validity within the scope of Art 19(2) was upheld. In the best interests of society, it was stated that films should be treated very differently than

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<sup>7</sup> Derashree Akanksha & Pathak Suman, Internet Censorship in India : Boom or Bane [2018] 6.2 NLUJ 71

<sup>8</sup> The Cinematograph Act, 1952, Section 5B

<sup>9</sup> 1971 SCR (2) 446

other forms of speech and expression. The Bandit Queen case<sup>10</sup>, also known as the Phoolan Devi case, involved a woman who was raped and tortured repeatedly before exacting revenge on her abusers. In a PIL filed to have the film's screenings stalled, the scenes featuring this were considered indecent and obscene. The Supreme Court ruled that screenings could not be stopped solely because the film contains obscene visuals. The issue of indecency had to be viewed in the context of the whole picture, and it was decided that the objectionable scenes should not be viewed in isolation. And what we find indecent and obscene may not be indecent and filthy to others. That being said, not everything can be left to ordinary man's pragmatism, so certain limitations are imposed under Article 19(2) of our Constitution. As a result, the censor board censors films in order to remove objectionable content. It is mostly done to make the film more appealing to the target demographic. Despite being a well-established idea, the issue of OTT censorship arose when the Cinematography Act was deemed inapplicable to OTT platforms. The Karnataka High Court<sup>11</sup> has held that films, serials, and other multimedia products transmitted, aired, or displayed via internet platforms, such as online streaming platforms, do not fall under the scope of the Cinematograph Act of 1952. As per bench, the act of displaying films, serials, and other content amounts to the transferring files based on user demands, and thus accepting that the transfer of files or films, serials over web tends to fall under the scope of the Law isn't really viable.

### III. INTERNET CENSORSHIP: A NECESSITY?

Is Digital censorship a necessity? Its a question the clear cut answer to which is “YES”, because restrictions are just as significant as free speech on the internet. An unregulated Online world is a humongous accident waiting to happen that may cause catastrophic harm to society. It is also very likely that the libertarian (regulated Internet advocate) ideology of an unrestricted and unchecked Internet is an outdated ideology; the Internet has changed dramatically in the last five to ten years. While you are free to say things that a normal person would consider completely extraordinary, you are not free from the societal ramifications that result.<sup>12</sup> Hence, some amount of Internet Censorship is important in the following contexts :

#### ➤ Case of Child Pornography

It is one of the most pressing issues of our time. Child pornography pictures are quickly accessible through for all intents and purposes any Internet innovation, including person to

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<sup>10</sup> Phoolan Devi vs Shekhar Kapoor And Ors. 57 (1995) DLT 154

<sup>11</sup> Mr Padmanabh Shankar vs Union Of India WRIT PETITION NO.6050 OF 2019 (C) PIL

<sup>12</sup> Dan Broadbent, *Censorship v. Free Speech - A Common Misconception*, *A SCIENCE ENTHUSIAST* (Mar. 29, 2016), Available at <https://ascienceenthusiast.com/censorship-free-speech/>.

person communication sites, record sharing destinations, photograph sharing locales, gaming gadgets, and even portable applications, as the development of the Internet and advanced computerised innovation coincides with the explosion of the child sex entertainment showcase. Publication of their naked photos, whether with their consent or fraudulently, has an impact on their development prospects as well as their mental health. Censorship of the internet is one method for preventing such child abuse. Both the Supreme Court of India and the central government are deeply concerned about this massive social evil. In December 2017, the Supreme Court, in a case filed by the NGO Prajwala, directed the Union of India to establish a portal for citizens to file complaints about issues relating to child sexual maltreatment, child pornography, and rape/gang rape videos.<sup>13</sup> Furthermore, in May 2018, the Supreme Court imposed a Rs. one lakh fine on internet behemoths like Google and Facebook for failing to file responses on the steps they took to block videos of sexual offences on social media.<sup>14</sup>

#### ➤ **Identity Theft**

Advocates for web censorship argue that by restricting what information can be accessed on the internet, private information will be more difficult to obtain. By using anti-phishing software, which acts as a form of net censorship in that it warns the user that a type of software is attempting to gain access, the user reduces the risk of hackers and companies gaining access to sensitive information.

#### ➤ **Hate Speech**

The notion that all speech is equal is contested. There are phrases that people use in an attempt to limit their ability to speak to others. Because of the prevalence of hate speech, it took more than a century for minorities and girls to achieve a semblance of equal rights. Even if it is cloaked in the concepts of religious freedom, state rights, or patriotism, it remains what it is to others. Censorship allows us to put a stop to this hatred before it begins. We are already constrained by education, family, entertainment, commerce, and other factors. This restricting approach opens up opportunities for inclusivity.<sup>15</sup>

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<sup>13</sup> Ashok K.M., SC Tells Centre To Get Portal For Filing Complaints On Child Sexual Abuse Related Crimes Ready By Jan 10, LIVE LAW (Dec. 13, 2017), <http://www.livelaw.in/sc-tells-centre-get-portal-filing-complaints-childsexual-abuse-related-crimes-ready-jan-10-read-order/>.

<sup>14</sup> SC slaps Rs 1 lakh fine on Google, Facebook and others over sex abuse videos case, HINDUSTAN TIMES (May 21, 2018), <https://www.hindustantimes.com/india-news/sc-slaps-rs-1-lakh-fine-on-google-facebook-and-others-over-sex-abuse-videos-case/story-NraMDVq6O5rROJbmu8VAeJ.html>

<sup>15</sup> Miller Keith, List OF Pros, 11 Biggest Pros and Cons of Censorship, Available at <https://futureofworking.com/11-biggest-pros-and-cons-of-censorship/>

### ➤ Fake News

In 2017, the number of claims of false information increased dramatically. Because readers believe the news is true, fake news websites promote false reports for money through clicks. Internet censorship would provide an additional level of discernment, potentially putting an end to divisive incidents based on events that never occurred. There have been several instances of fake news. In India, lawmakers have identified WhatsApp, which has 160 million Indian customers, as the primary tool responsible for the spread of fake news.<sup>16</sup> The most dangerous case of fake news on Whatsapp occurred after the Indian government announced its demonetization plan. The spread of a scuttlebutt on Whatsapp that the new currency notes were installed with a GPS-chip to fight black money created widespread chaos throughout the country. The Supreme Court upheld "ordered security" as a constitutional value in the case of *State of U.P. v. Lalai Singh Yadav*<sup>17</sup>, making sure that where free speech and public order appear to conflict, the latter supersedes. Though there have been dissenting voices, this continues to be the dominant strand in free speech jurisprudence to this day, creating a situation in which, instead of the government having to ensure an environment in which everyone can speak freely, those who are speaking are expected to exercise caution while some may become offended. Even truth is not given the same value as order.

## IV. DIGITAL CENSORSHIP & FREE SPEECH IN CONFLICT

Article 19's guarantee of freedom of expression empowers an individual to speak out against the odds, for his rights, against the ills of society, community, and so on. It is a necessary and vital component of democracy. It is one of the most important fundamental rights and freedoms protected against state camouflage or control.<sup>18</sup> This freedom is also necessary for the pursuit of the truth. It gives individuals the ability to express their opinions and ideas, which distinguishes dictatorial regime from democracy.<sup>19</sup> The freedom to express oneself freely is important for a number of reasons, which help shape the growth and application of law governing free expression. The internet's backbone is free speech. It provides people with an easy way to express their ideas and raise their voices against injustice, corruption, and other social ills. It is impossible for the internet to survive without free speech. Clause (2) of Article 19 specifies the restrictions that should be foisted on freedom of speech and

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<sup>16</sup> Deepali Moray, WhatsApp reaches 160 million monthly active users in India; highest in the world, BGR (Nov. 15, 2016), <http://www.bgr.in/news/whatsapp-reaches160-million-monthly-active-users-in-india-highest-in-theworld/>.

<sup>17</sup> 1977 SCR (1) 616

<sup>18</sup> Dheerendra Patanjali, *Freedom of Speech and Expression, India v. America - A Study*, 3/4 INDIA LAW JOURNAL (2007), [http://www.indialawjournal.com/volume3/issue\\_4/article\\_by\\_dheerajendra.html](http://www.indialawjournal.com/volume3/issue_4/article_by_dheerajendra.html).

<sup>19</sup> *Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India*, 1985 SCR (2) 287



expression in order to prevent societal unrest. In relation to these constraints, the internet censorship tool could also be used to remove or modify online content but often the line between restriction and abuse is very thin. Censoring content online is the new tool which the Governments use for their political reasons and India has Witnessed many such examples in the recent times Like that of Disha Ravi but the most important and landmark case in the history of digital censorship in India is that of Shreya Singhal. In *Shreya Singhal v. Union of India*<sup>20</sup>, the Supreme Court declared Section 66A of the IT Act unconstitutional. The Supreme Court's decision to strike down Section 66A of the IT Act as unconstitutional proves that with the right kind of conviction, it is feasible to unearth the value of free speech as a value unto itself within our larger constitutional scheme; it must give us hope that we can now challenge the malodorous culture of censorship that suffuses the Indian state. The case of Shreya Singhal is one of the finest examples of political interference in India on censorship because the police arrest was motivated by political influence. As a result, the Supreme Court, in quashing Section 66A, stated that Section 66A is capable of limiting all forms of internet communications because it fails to distinguish "between mere discussion or advocacy of a particular point of view, which may be annoying, inconvenient, or grossly offensive to some and incite violence."

### **Social Media & Censorship**

When it comes to sharing ideas, opinions, and photos, social media has been a boon, but some people have abused the platform. The majority of the victims of this abuse have been women, who are subjected to regular trolling based on their gender, religion, caste, or marital status.<sup>21</sup> Trolling is a bigger problem in India than it is in the United States or the United Kingdom. Muslim women are subjected to 55% more harassment.<sup>22</sup> Woefully in the recent times India has seen a significant amount of social media censorship in the form of arrests and charges of sedition and the likes of UAPA being used to crush the dissenting voices over social media. Social Media is used as a free platform for the citizens to express what they feel about a particular situation but now that freedom is curtailed with government using its authority to crush the dissent and strong critical opinions. The most recent such example is that of Disha Ravi who was arrested for criticising the government over social Media.

The COVID-19 pandemic has resulted in the exponential growth of online entertainment. The

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<sup>20</sup> (2013) 12 SCC 73.

<sup>21</sup> India: Women politicians face shocking scale of abuse on Twitter - new research, Available at <https://www.amnesty.org.uk/press-releases/india-women-politicians-face-shocking-scale-abuse-twitter-new-research>

<sup>22</sup> Women politicians trolled more: Amnesty India, Available at <https://www.thehindu.com/news/national/women-politicians-trolled-more-amnesty-india/article30631355.ece>

content on OTT platforms and social media has been subjected to repeated scrutiny, necessitating the need for digital content regulation. The Information Technology (Intermediaries Guidelines and Digital Media Ethics Code) Rules, 2021 will govern OTT platforms, social media intermediaries, online news entities, and current affairs websites. Furthermore, the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021, which prescribe a Code of Ethics, were drafted in accordance with the decades-old Information Technology Act, 2000. The new code differentiates between social media intermediaries and important social media intermediaries. An intermediary must exercise due diligence, according to the code. Significant social media intermediaries, on the other hand, must perform additional due diligence.<sup>23</sup>

### **OTT Platforms & Censorship**

OTT has exploded in popularity in India, with the COVID-19 epidemic boosting demand even more. Because of the streaming business, content is now readily accessible to all demographics of society at a minimal cost. This, combined with the privilege of watching the content from anywhere at any time, has captivated the people's interest. This pervasive appeal, however, has been supported by intense calls for regulation. The IT Intermediaries Rules 2021<sup>24</sup> ("IT Rules 2021") are the most recent and notable attempt at OTT regulation. The path to OTT industry regulation has been fascinating, and it appears to be divided into three stages.

- **Phase I**

At the time, the OTT sector was still attempting to break into the Indian market. There was little content experimentation, and the vast majority of the content was uncontroversial. Although the sector experienced exponential growth during this time, the actual development occurred at a much later stage.

- **Phase II**

If there was a watershed moment, it would be the release of *Sacred Games* on Netflix, which focused attention on the issue of OTT platform regulation. As the content became more contentious and calls for regulation increased, numerous FIRs were filed. Initially, the government encouraged self-regulation while abstaining from any involvement in the process.

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<sup>23</sup> Kumar Saksham, *The New Norms For OTT Platforms, Online News And Digital Media: An Overview*, Available at <https://www.mondaq.com/india/social-media/1073446/the-new-norms-for-ott-platforms-online-news-and-digital-media-an-overview?type=mondaqai&score=78>

<sup>24</sup> Notification dated, the 25th February, 2021 G.S.R. 139(E): the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

- **Phase III**

In November 2020, the Ministry of Information and Broadcasting ("MIB") brought all OTT platforms, as well as digital news websites, under its jurisdiction, resulting in IT Rules 2021. Part III of the regulations, which we will focus on, includes a Code of Ethics, process, and protection for digital media, with the MIB in charge. The MIB is in charge of enforcing this Code of Ethics. These guidelines must be followed by OTT platforms, online news organisations, and digital media companies. OTT platforms are now referred to as "publishers of online curated content" under the new rules.

### **The IT Intermediaries Rules 2021 ("IT Rules 2021")<sup>25</sup>**

The IT Rules of 2021 provides for the following regulatory mechanism for OTT Content :

- **Self-Classification**

The OTT platforms, alluded to as "publishers of online curated material" in the guidelines, would self-classify the content into five age brackets: U (universal), U/A 7+, U/A 13+, U/A 16+, and A. (Adult)

- **Compliance Officers**

The OTT platforms must entrust three compliance officers, who all must be Citizens. The compliance officers' titles are as follows:

- (1) Chief Compliance Officer,
- (2) Nodal Contact Person
- (3) The Resident Grievance Officer.

- **Compliance Report**

These platforms must also publish a monthly report detailing the grievances and the decisions made. In addition to the Code of Ethics, a three-tier grievance handling system must be developed to come to terms with and address any customers' problems.

## **V. CONCLUSION**

Freedom of speech and expression is a critical component of a democracy. There must be a proper balance between freedom of speech and expression and other factors such as privacy, security, and so on. So far, censorship of the internet has fallen short of expectations and is woefully inadequate. Politicians and businessmen have always benefited from free speech and

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<sup>25</sup> *Supra* 23

expression laws, whether they exist or not. Blocking content for political reasons or stealing information is also a violation of free expression. A law that is transparent enough for citizens to trust with their personal details should be enacted. Citizens' personal information is frequently stolen in order to obtain voting benefits, preferences, and so on. Certain variations should be implemented by the government in order to properly facilitate freedom of speech and expression in this country.

Censorship wields considerable power. Censorship helps to keep anti-social, hostile, and explicit content out of the public eye, thereby maintaining societal order. It also safeguards people's feelings by prohibiting the dissemination of information that is offensive to certain cultures or tribes. However, in an era of censorship, creators are sometimes forced to fight for a certificate and approval, especially when the content criticises the government and its policies. As a result, diverse points of view, innovation, and creativity are being suppressed. As a result, freedom of expression will be indirectly threatened. Power and money may be able to influence content to achieve their goals and spread political propaganda.

Internet censorship is one of the most contentious issues of our time. Everyone, from a child to an adult to an elderly person, has access to the internet. Anyone can easily express their opinions on the internet. Because of the nature of the internet, it is critical to censor content on it. Censorship exists to eliminate social evils such as child pornography, fake news, defamatory content, and so on. There are provisions for Internet Censorship, but if these provisions are used in the name of regulations to promote a political party's agenda that is not in the best interests of the public at large, it would be a violation of Fundamental Rights.

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