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The State Deputizing Citizens to Discipline Digital News Media: The Case of the IT Rules 2021 in India

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ABSTRACT

This article examines a recent regulation in India called the “Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021.” The Rules allow for filing of “grievances” – defined quite broadly – against digital news outlets, who are required to resolve them within a specific time frame or face legal action. This article analyzes the government’s press conference transcripts, PR materials, statements to the UN and in courts to articulate the purported rationale for the Rules: curbing fake news and ensuring that the press is accountable to the public. However, analysis of the meta-journalistic discourse shows how the Rules institutionalize online vigilantism in the name of “accountability.” These findings are contextualized by discussing the Indian media system and the related regulatory regime; and the rise of Hindu nationalism and online vigilantism. More broadly, this article illustrates how online harassment of journalists can involve a combination of grassroots mobilization and state-backed efforts; it underlines the urgency of studying how the “fake news” crisis is being instrumentalized to curb press freedom in the Global South; and it illustrates how press freedom assumes different meanings across a news media landscape segmented by language and geography, as in the case of India.

KEYWORDS

Media regulation;
vigilantism; censorship;
Hindu nationalism; fake
news; India; digital
journalism;
online harassment

Introduction

Taken at face value, India’s recent news media regulation seems to echo public-minded reforms elsewhere. While introducing the “Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021” (henceforth “IT Rules 2021”), the Government of India argued that it is empowering citizens to hold digital news media accountable. It stated that the “news audience cannot be treated as passive consumers without any recourse of participation in the process of accountability” and that “an economic environment marked by competition for eyeballs and regulatory vacuum with respect to the content on digital media has led to spread of fake news” (Ahsan 2021). This is similar to the United States in the 1990s, when some reformers advocated for “public journalism,” meaning that “the press should help citizens participate and take them seriously when they do... the press

should change its focus on the public world so that citizens aren't reduced to spectators..." (Rosen 1995, 35). Western scholars of political economy would also agree with the Indian government's professed critique of the commercialization of the news media (Pickard 2020).

These similarities end when one considers the specifics of the IT Rules 2021. The Rules allow citizens to file a "grievance" against digital news websites – similar to "reporting" content on social media. A news media organization can face legal action if it fails to resolve the grievance within a specific period. With the rapid rise of majoritarian politics that have transformed the "public" to "vigilante publics" in India (Banaji 2018), the Rules illustrate of how the Hindu nationalist government is using the rhetoric of democracy and accountability to legally empower online vigilante behavior and institutionalize "mob censorship" (Waisbord 2020). Furthermore, the peculiarities of the media regulation regime in India (Parthasarathi and Agarwal 2020) allow for the Rules' broad scope and vague definitions.

This article conducts a critical discourse analysis of op-eds, government documents, and transcripts of various events to delineate the contestations in the arena of media regulation. These contestations, as will be shown subsequently, are much more than just arguments in favor of and against the Rules; they illustrate how the Indian news media landscape is segmented, how governments in the Global South are responding to the "fake news" crisis, and how online harassment of journalists can involve grass-roots mobilization combined with sophisticated and concerted state-backed efforts. The next two sections review the existing literature on media regulation in India and Hindu-nationalist online vigilantism, respectively, which provides useful context and motivates the research questions.

Digital News Media and the Media Regulation Regime

Native Digital English-Language News Media within the News Media Landscape

Native digital news media in English are of central importance in this article, and it is useful to consider what English language and "native digital" imply in the Indian context. Although the English-language news media is small in comparison to the vernacular press, the former has been said to have an outsized impact within the public sphere (Rajagopal 2001). This high status is reflected in English-language news organization's significantly higher ability to fight legal battles and advocate for itself compared to the vernacular press (Paul and Palmer 2022); it is reinforced by the purchasing power and high status of its audiences and the global reach of English language. English-language organizations receive significantly higher internet traffic compared to native digital news in other languages (Parthasarathi and Agarwal 2020, 5).

On the other hand, native digital news organizations are important because they potentially offer some solutions to the structures problems facing the legacy news media. Chadha (2017) writes that the commercialism, rising levels of concentration and cross-media ownership, and political pressures on the news media industry have "significant and deeply negative implications for the production of news and overall quality of journalism." (2017, 1). While the same factors affect digital journalism because the legacy news organizations have the resources and brand recognition to

dominate the online market (Parthasarathi and Agarwal 2020), native digital news organizations can potentially overcome these problems with alternative funding models.

News organizations that are native digital and in English are often founded by, or employ, leading journalists pushed out of legacy news organizations due to political pressures (Chaudhry 2016; Prasad 2021). They are “stand-alone entities financed variously by avowed public interest philanthropy, venture capitalists, and journalists” (Parthasarathi and Agarwal 2020, 5). Prasad (2021) finds that journalists working within these organizations see the legacy news media as a failed system – excessively corporatized, failing to observe professional journalistic norms, and unwilling to hold the powerful accountable. These journalists therefore try to “cover things that the big media chooses to ignore” while adopting alternative business models to maintain independence. Overall, they assume the watchdog role quite consistently, which results in serious attacks from the government. For example, in a leaked document, top government officials singled out such organizations (e.g., *The Wire*, *Scroll.in*, and *The Print*) for the negative international coverage of the Modi government. They suggested that the government needs to “neutralize” such news organizations because they “generate a lot of heat” (Group of Ministers 2020, 12, 19). Despite all this, it is important to note that these digital news organizations’ investigative reportage reaches broad audiences only if it is amplified by legacy news organizations (Parthasarathi and Agarwal 2020, 6). Therefore, they play a supplemental role to the legacy media.

Native Digital News Organizations under the IT Rules 2021

The Indian state intervenes in the news media industry through three legal pathways: colonial statutes inherited from the pre-independence era; legislations introduced by the Indian parliament; and executive orders – such as the IT Rules 2021 – which can be “bereft of democratic legitimacy” as they are “often adopted to bypass the scrutiny and time involving legislative processes” (Parthasarathi and Agarwal 2020, 8). Furthermore, the media infrastructure that has shaped the jurisdiction of various government ministries is ill-defined to govern digital journalism: the Ministry of Electronics and Information Technology (MEITY) was created to deal with digital issues and the Ministry of Information and Broadcasting (MIB) was created to regulate newspapers and broadcasting news (Parthasarathi and Agarwal 2020, 8). That is, the regulatory regime governs “digital” and “journalism” separately.

These ill-defined jurisdictional boundaries in turn create a regulatory leeway, making it important to analyze how the state leverages this situation. As Freedman (2015) writes, “media policy is not a clean, administrative, depoliticized, and unproblematically evidence-based space but instead, an ideological power field in which certain preferences are confirmed and others marginalized” (96). The state paints a false “official” view of the policymaking process in which “a range of views is sought, the evidence considered carefully and a decision is reached based only on the merits of the specific situation. Special interests are held at bay while the public interest remains paramount” (97).

RQ1: How has the government constructed the rationale for the IT Rules 2021?

The IT Rules 2021 are vague in how they apply to news websites of legacy (broadcast and print) news organizations versus native digital news organizations. The Digital News Publishers Association (DNPA) – which consists of major legacy organizations and claims to reach 70% of the Indian audience – has argued that the Rules do not apply on them because they are traditional media merely with a digital presence (as opposed to being native digital news); some members of DNPA allegedly even support the Rules if it only applies on native digital news media (Deep 2021; Nath and Sharma 2021). Native digital news organizations are therefore somewhat alone in the legal battle to overturn the Rules in court (Newslandry 2021). To summarize this section, native digital news media in English language are one of the main targets of the IT Rules 2021 because of their independence, influence, and elite position; and for these very reasons they are able to push back against the Rules most visibly and vocally.

***Hindutva* Movement, Vigilante Publics, and Online Harassment of Journalists**

Democracy in India is on a precipitous decline under Narendra Modi, who led the Bharatiya Janata Party (BJP) to victory in 2014 and has been the Prime Minister since. In 2021, the Freedom House downgraded India from “free” to “partly free,” the V-Dem Institute demoted India from “electoral democracy” to “electoral autocracy,” and the Human Rights Watch painted a similarly bleak picture in its annual report (Freedom House 2021; Kapur 2021). Modi and his supporters champion *Hindutva*, an ideology of Hindu supremacy that has led to the marginalization of Muslims, religious minorities, and “lower” castes – often unleashing brutal violence against them (Mukherjee 2020). As Banaji puts it “the *Hindutva* project currently under way in India is a modern, indigenized version of fascism, not yet complete or able to reject electoral democracy ... [it has] an ability to de-democratize and subvert democratic processes under the guise of democracy” (Banaji 2018, 345). Press freedom has been declining under Modi: in 2021, RSF ranked India – the so-called “world’s largest democracy” – 142 out of 180, stating that it is one of the most dangerous countries for journalists to work in (RSF 2021). The online harassment of journalists critical of the Modi government is routine and it ranges from bullying to threats of sexual assault and assassination (Ayyub 2018; Chen et al. 2020; Rao 2018). The specific targeting of women journalists in India fits with the trends in the Global North (Adams 2018; Miller and Lewis 2022).

The *Hindutva* movement has resulted in, and is advanced by, the co-optation of India’s caste Hindus to the cause of *Hindutva* and the formation of “vigilante publics,” where the “feeling of group superiority and cohesion are enhanced by verbal and physical action against those positioned as anathema to the vigilante public sentiment;” and this violence can “at once be endorsed and disavowed by the state, whose purposes are furthered through participatory violence” (Banaji 2018, 335) (throughout this article, the use of the term “publics” will refer to this articulation). The vigilante publics channel a lot of their efforts into online spaces. The BJP has been at the forefront of using social media for electoral gains and ideological recruitment, making a head start in the 1990s (Udupa 2019, 3146). It has so-called “IT Cells,”

which run its social media operations, maintaining an atmosphere of permanent campaign and routinely repeating the party line. As Udupa argues, the IT Cells are an important wing of the BJP, with a small team of paid workers and a large number of unpaid volunteers – as many as 100,000 according to rough estimates (2019, 3147–3148). Working in conjunction with bots, these volunteers regularly trend *Hindutva* discourses on social media and confront opposing views with ridicule, abuse, and hate (Udupa 2019, 3150).

Scholars have articulated multiple reasons behind what motivates these online vigilante publics. Mukherjee (2020) suggests that performing acts of vigilantism and sharing it offers a pathway to gain stature and respect within the *Hindutva* movement. For example, *Hindutva* cow vigilantes not only inflict violence upon the meat industry workers – overwhelmingly Muslims and “lower” caste Hindus – but are eager to publicize it on online platforms. Udupa (2019) argues that the “fun” of targeting political opponents is partly what glues this vast community of volunteers together who are otherwise not completely bound by party mentoring; “fun” in this context is laden with political purpose of working with fellow volunteers whenever one chooses to; exchanging virtual “high-fives” while pushing back on opposing narratives; making *Hindutva* topics “trend” and celebrating this victory.

This has very significant implications for digital news organizations. As scholarship above suggests, the harassment of journalists is not entirely state-orchestrated, even though the BJP’s IT Cells have a strong online influence. Neither is the harassment purely “mob censorship,” which Waisbord defines as bottom-up, online citizen vigilantism aimed at disciplining and silencing journalists (Waisbord 2020, 1031). Rather, the nature of online harassment lies somewhere in the middle; the IT Rules 2021 are remarkable because they appear to forge a connection between state-censorship and mob censorship. The criticism of the Rules is that the Indian government is trying to censor the press according to the whims of the *vigilante publics*, while falsely framing this issue as the news media’s accountability to the *public*.

RQ2: In which ways may the IT Rules 2021 institutionalize mob censorship?

Methodology

I used purposive sampling to create a separate corpus for each research question. The first corpus contains articles, webinars, statements and open letters by journalists, lawyers, non-profits, NGOs, and human rights groups opposing the IT Rules 2021. These were published between February 2021, when the Rules were introduced, and until December 2021. They include (1) the articles published by digital news platforms which announced that they are challenging the Rules in court; (2) publications of major rights groups like the Internet Freedom Foundation (IFF). These organizations meticulously compiled lists (e.g., as open letters) of actors opposing the Rules – most likely to show to the public the importance of this issue. I used these lists for snowball sampling and to ensure that no prominent organizations were missing from the corpus. This full corpus contains 15 key documents and two webinars, spanning eight news media organizations and 19 human rights groups (Table 1). These news media

Table 1. Summary of corpus containing criticism of the IT Rules 2021.

Category	Details
News outlets	1. BloombergQuint 2. Newslaundry 3. Scroll.in 4. The Hindu^b 5. The News Minute 6. The Quint 7. The Times of India^b 8. The Wire
Human Rights Groups or Entities	1. Special Rapporteurs to the UN 2. Internet Freedom Foundation 3. Human Rights Watch 4. Freedom House 5. Editors Guild of India 6. Electronic Frontier Foundation 7. Mozilla 8. Access Now 9. Article 19^a 10. Association for Progressive Communications^a 11. Center for Democracy and Technology^a 12. CIVICUS: World Alliance for Citizen Participation^a 13. Dangerous Speech Project^a 14. International Commission of Jurists^a 15. Internet Sans Frontières^a 16. Internet Society^a 17. Mnemonic^a 18. OpenNet^a 19. Reporters Without Borders^a
Publication type	1. Webinar or discussion (2) 2. Op-ed or news article (2) 3. Statement or blog (4) 4. UN document (1) 5. Open letter (1) 6. Open letter (1)

^aEntities which signed the open letter^bLegacy news media.**Table 2.** Summary of corpus containing India government's documents on the IT Rules 2021.

Type	Count
Press release	2
Press conference (video)	1
Op-ed/news article	2
Legal document	1
PR material	3
Communication with the United Nations	1

organizations are mostly native digital and are all English-language, which speaks to the dynamics described in the previous section.

The second corpus contains the Indian government's communications with the public, press, and the UN. I constructed this corpus during the same period as above by (1) accessing material posted by the relevant ministries on their websites; (2) following social media handles of these ministries and their top officials; and (3) accessing government's communications referenced in the first corpus. This corpus contains a 46-min long press conference, and nine documents spanning 149 pages (Table 2).

I conducted critical discourse analysis (van Dijk 1993) to identify and analyze the themes in the text given the wider context of debates around media policy and press

Table 3. Structure of IT rules 2021.⁴

Part I	Part II: Administered by: Ministry of Electronics and Information Technology (MEITY)		Part III: Administered by: Ministry of Information and Broadcasting (MIB)	
	Regulated entities			
Definitions of various terms such as “digital media,” “publisher,” “news and current affairs content” etc.	(A) Social media platforms such as Twitter, Facebook, etc.		(C) Digital news media	
	(B) Messaging platforms such as WhatsApp, Telegram, Signal etc.		(D) Over The Top (OTT) platforms such as Netflix, Amazon Prime, etc.	

The letter “M” in the abbreviations MEITY and MIB is used in this article interchangeably for “Ministry” or “Minister,” depending on the context.

freedom in India. First, with multiple close readings of the texts and using open coding I identified a preliminary set of themes. These included themes irrelevant to the research questions but part of the controversy around the Rules: breaking end-to-end encryption on messaging platforms, definition of “intermediary,” etc. I refined the relevant themes through an iterative, inductive process, based on the idea that media policy is “an ideological power field in which certain preferences are confirmed and others marginalized” (Freedman 2015, 96). Practically, this meant that while repeatedly reading the texts I tried to look beyond the legal definitions and arguments to identify how the underlying social problems are being articulated, and how blame and responsibility for them is being assigned. I questioned the forms of solutions being proposed, and identified important things that were left unstated. I describe the results in detail after summarizing the legal structure of the Rules in the next section.

Legal Structure of the IT Rules 2021

The IT Rules 2021 were announced on 25 February 2021. Part I of the IT Rules 2021 contains various legal definitions, and Part II and Part III define the regulation of four entities – social media, messaging platforms, over-the-top (OTT) platforms like Netflix, and digital news media. Under the Rules, digital news media is regulated by MIB (see Table 3).

This article is only concerned with a specific portion of the IT Rules 2021 – the rules governing digital news platforms. Nevertheless, it should be noted that the range of online entities that the government wishes to regulate under the Rules is vast. According to the Internet Freedom Foundation (IFF), these rules “fundamentally change the way the Internet will be experienced in India” (IFF 2021). The government’s rationale is that social media, messaging platforms, OTT platforms, and digital news media are all internet “intermediaries” and therefore can be regulated together.

The regulation of digital news media under the Rules is through the “grievance redressal mechanism” (see Table 4) and the government argues that this would curb fake news. A concise summary of the grievance redressal mechanism is the following: it is a three-tier decision-making body that responds to the grievance filed by any person against the content published by a digital news media outlet. If the person does not receive a “satisfactory response” to the grievance within 15 days, they can appeal to the higher tiers. Crucially, higher tiers have more government officials making the decisions. They also have the power to punish the digital news media organization,

Table 4. Three-Tier Grievance Redressal Mechanism for Digital News Media under IT Rules 2021⁵.

Decision-making Entity	Composition of the Entity	Responsibilities and Powers of the Entity
Tier 3 (Highest Authority) Inter-Departmental Committee	(1) Is consisting of representatives from the MIB, Ministry of Women and Child Development, Ministry of Law and Justice, Ministry of Home Affairs, Ministry of Electronics and Information Technology, Ministry of External Affairs, Ministry of Defense, and such other Ministries and Organizations (2) MIB will appoint the chairperson of the committee	(1) Has emergency blocking powers (2) Is empowered to delete or modify content
Tier 2 (Intermediate Authority) Self-Regulating Body	(1) Is registered with the MIB, and the MIB will “satisfy itself” that the self-regulating body has been constituted properly. (2) Is constituted by publishers or their associations, and headed by a retired judge of the Supreme Court, a High Court, or an independent eminent person from media, broadcasting, entertainment, child rights, human rights or other relevant fields.	Is empowered to warn, censure, admonish, reprimand the publisher; require an apology; or even censor the content as it deems fit.
Tier 1 (Lowest Authority) Grievance Officer	Is appointed by the digital news media outlet to deal with grievances.	Is required to take a decision on every grievance received by it within 15 days. Otherwise the grievance can be taken to higher tiers.
Complainant		

which includes censoring, blocking, demanding an apology, etc. The definition of grievance is broad and it includes “any complaint, whether regarding any content” (MEITY 2021b, 19). A grievance can be filed for violating the “Code of Ethics;” this is defined as “exercis[e] due caution and discretion” when the published content which (MEITY 2021b, 32) –

- i. “Affects the sovereignty and integrity of India”
- ii. “Threatens, endangers or jeopardizes the security of the State”
- iii. “Is detrimental to India’s friendly relations with foreign countries”
- iv. “Is likely to incite violence or disturb the maintenance of public order”
- v. Features “the activities, beliefs, practices, or views of any racial or religious group”

According to various organizations, the Rules violate the Indian Constitution and the International Covenant on Civil and Political Rights (ICCPR) to which India is a party; these organizations include rights groups such as the Freedom House (2021), Human Rights Watch, Reporters Without Borders and Electronic Frontier Foundation (Access Now et al. 2021), Special Rapporteurs to the Human Rights Council at the UN (Khan, Voule, and Cannataci 2021), various senior lawyers (Dave, 2021), and the Editors Guild of India (2021).

The four entities regulated under the Rules challenged the rules for different reasons. For example, WhatsApp has sued the Rules for violating the right to privacy

(Banka and Bhardwaj 2021). The lawsuits against the regulation of digital news media mostly rest on the violation of freedom of speech. But as a lawyer puts it, “the most egregious aspect of these [the] IT Rules is seemingly the most innocuous and unfortunately least focused on in the legal challenges pending before various high courts: the obligation that all news publishers establish a grievance redressal mechanism” (Mathew 2021). What this means is described in the next sections.

The Indian Government’s Rationale for the IT Rules 2021

There are four themes that summarize the government’s rationale for the Rules vis-à-vis the digital news media.

To Solve the Problem of “Fake News”

Although the Rules themselves do not explicitly mention “fake news,” a major reason given by the government – to the public, press and judiciary – for regulating digital news media is to curb fake news. For example, in response to petitions filed against the Rules by various digital news organizations in the Delhi High Court, MIB and MIETY said that fake and misleading audio-visual news lead to the deaths of innocent people and disturbance of public order, and that “an economic environment marked by competition for eye-balls and regulatory vacuum with respect to the content on digital media has led to spread of *fake news* and other potentially harmful content *without any accountability of digital news publishers* [emphasis added]” (Ahsan 2021). Similarly, MIB justified the Rules in a press conference by saying that “digital media platforms don’t have the right to spread rumors and lies” (PIB 2021, 21:48).

The government has published numerous pamphlets to publicize and defend the IT Rules 2021. One of these pamphlets is titled “Awareness Initiatives and Webinars on Digital Media Ethics Code” (MIB 2021a). Illustrating Freedman’s (2015) description of the “official” account of the policymaking process – where allegedly public interest remains paramount, a range of views is sought, and evidence is considered carefully – this pamphlet states that 2,447 people participated in government-organized webinars, and all participants expressed great support of the Rules. It reports that:

“One of the main concerns raised during the webinars was the need for countering fake news. It was suggested that the publishers who regularly spread false and/or misleading information should be held accountable, and a mechanism for identification and redressal of disinformation may be developed.” (2)

Likewise, the FAQ section of this pamphlet explains:

Question: “Where to [sic] register complaints against any fake news published on any digital media platform?”

Answer: “... The grievances related to fake news published on any digital news publisher may be submitted to the Grievance Redressal Officer of the concerned publisher.” (29)

In fact, the “Code of Ethics” described previously – which uses national security and maintenance of law and order to impose broad restrictions on the press – is seen by the government as a solution to curb fake news. The government alleges that “the

Code of Ethics for news publishers would help to fight fake news on digital media through a mechanism of accountability of publishers” (MIB 2021b). The IT Rules 2021 therefore should be seen as part of an important trend, quite prominent in the Global South, whereby governments use “fake news” as a pretext to curb press freedom – a point that I will return to in the last section.

To Level the Playing Field between Digital News and Legacy News Media

In the press conference announcing the Rules, the MIB stated that while “it is good that digital technology led to the creation of digital news platforms,” these platforms “have to follow some regulations.” Speaking to the journalists directly, the Minister said that “there is a crucial difference between you all, who come from the press [legacy news], and the [native] digital news media. Press people have to follow the code of the press council, but that is not true for [native] digital news media” (PIB 2021, 15:30). He did not mention that the violations of these existing code of ethics cannot be penalized (Sharma 2009, 46), while the IT Rules 2021 have provisions for punishment. During the press conference the government officials repeatedly stated that through regulation they are “removing double standards” and “leveling the playing field” between native digital news organizations and legacy news organizations.

Regarding the “level playing field” argument, the full picture is that digital journalism as a form of speech is subject to the regulations originating in the broadcast and newspaper realm *and* to recent interventions specifically directed at online content (Parthasarathi and Agarwal 2020, 9). A news website is “undefined as a distinct legal object” (Parthasarathi and Agarwal 2020, 12) which allows the government to double-speak. In the past, the Indian government has used very similar arguments to regulate foreign investment in native digital news, raiding prominent news organizations and leading to the shutting down of *The Huffington Post* in India (Parthasarathi and Agarwal 2020 12–13; Hindustan Times 2021).

To Control Rogue Actors in Cyberspace

The Indian government’s most general argument to introduce the Rules can be summarized as an attempt to tackle the “ills on the Internet.” The government defined a bundle of issues that represent these ills, like terrorist activities, financial frauds, fake news, WhatsApp-fueled mob lynchings, revenge pornography, and more – and then assigned collective blame to social media, messaging platforms, OTT platforms, and digital news media. The press release on the Rules has a “background” section, which defines this problem:

“Of late, some very disturbing developments are observed on the social media platforms. Persistent spread of *fake news* has compelled many media platforms to create fact-check mechanisms. Rampant abuse of social media to share *morphed images of women* and contents related to *revenge porn* have often threatened the dignity of women ... Over the years, the increasing instances of misuse of social media by *criminals, anti-national elements* have brought new challenges for law enforcement agencies. These include inducement for *recruitment of terrorists, circulation of obscene content, spread of disharmony, financial frauds, incitement of violence, public order etc.*” (MEITY 2021a; emphasis added)

Here only the issue of “fake news” is very clearly relevant to the digital news media; most other issues are relevant to social media and messaging platforms. Yet, all the issues together set the tone for regulating digital news media as well. For example, at the press conference announcing the Rules, MEITY spoke for 14 min, painting a bleak, lawless picture of the Internet which set the tone of the conference; MIB (which regulates digital news media) spoke only for 3.5 min. The most explicit example of this “bundling” approach and setting the tone is the following exchange (PIB 2021, 33:50)¹:

Journalist: Will there be another round of consultations on the guidelines [IT Rules 2021] given that none of the news publications so far have been given the opportunity to do so?

MIB: Like I said, we consulted 40 *OTT entities* three times... we made these guidelines because they failed to self-regulate. Like MEITY said, *their guidelines* [on social media and messaging platforms] were posted publicly – they received 177 comments. In the case of digital platforms, we just do not know who they are² [so we could not consult them]. Now once there is a disclosure [when digital news platforms register themselves with the government under the Rules] we are open for a discussion.

MEITY: I would like to add ... the government has to take into account all stakeholders – that is what Modi’s accountable government is all about. *Should we keep quiet when a mother starts complaining to us that my daughter is being exposed [online] like this [in a sexually derogatory way]? Should we keep quiet when a small business entrepreneur is swamped by big businesses? Our department is full of these complaints, which is why we have created these guidelines ...*

Above, the text in italics highlights facts irrelevant to the journalist’s question that nevertheless set the overall tone. Bundling of issues together gave the government a morally high ground: if any aspect of the Rules were questioned, the government cited the worst things happening on the Internet to defend the Rules, and called its legal response “accountable governance.”

To “Empower Ordinary Users”

The Indian government framed the Rules as “empowering ordinary users” to hold digital news media accountable. Below are two examples:

“these Rules substantially empower the ordinary users of digital platforms to seek redressal for their grievances and command accountability in case of infringement of their rights” (MEITY 2021a).

“news audience cannot be treated as passive consumers without any recourse of participation in the process of accountability ... Disinformation, or simply fake news, on digital media is one of the misuse of electronic records which may lead to violation of other fundamental rights of the audience, e.g. violation of the right to dignity through defamation; violation of the right to privacy through unlawful depiction in the media, violation of the right to life and personal liberty through disturbance of public order, etc.” (Ahsan 2021)

The discourse on “empowering ordinary user” is also bundled together in a way which obfuscates details – the argument quoted below does not apply to digital news media, but it is still repeated to the news media and public strengthen the claim that the Rules empower ordinary users:

"It was found that currently there is no robust complaint mechanism wherein the ordinary users of social media and OTT platforms can register their complaint and get it redressed within defined timeline. Lack of transparency and absence of robust grievance redressal mechanism have left the users totally dependent on the whims and fancies of social media platforms."³ (MEITY 2021a)

Institutionalization of Mob Censorship

This section outlines how the IT Rules 2021 may institutionalize "mob censorship" – bottom up, online citizen vigilantism aimed at disciplining and silencing journalists (Waisbord 2020, 1031). Indian journalists face a "considered silence" from the regulatory regime when it comes to tackling online trolls threatening physical violence (Parthasarathi and Agarwal 2020, 11). Simultaneously, through the Rules, the regime is keen to reward vigilante publics for policing news media online. This duality of regulatory inaction and action is an important element in media policy in India and beyond (Freedman 2010; Parthasarathi 2018; Parthasarathi and Agarwal 2020). Some general critiques are worth mentioning before describing three specific themes within them. For example, Pamela Philipose, the ombudsperson for *The Wire* writes:

"Imagine for a moment what life for journalists working in the online space could be like if even a minuscule proportion of the over 500 million Indians online had a "grievance" against any news establishment/journalist and a sympathetic police station willing to file the FIR [police report]... As ombudsperson of *The Wire*, I have received innumerable mails expressing anger at its framing of events and individuals, without any requisite understanding of how intrinsic the adoption of editorial stances is to independent journalism. Discounting, undermining or demolishing this right would make for a homogenous, monotonal media voice dictated by the state and market. This, however, is exactly what [MEITY and MIB] wish to achieve behind the altruistic veil of "empowering ordinary users" through a "forum for resolution of their grievances in a time bound manner against the abuse and misuse of social media..." Their intention is ultimately to create a Kafkaesque criminal justice maze from which digital media practitioners may never emerge with enough stamina, physically and intellectually, to follow their actual calling – creating journalism that is of value for a democratic society." (Philipose 2021)

In a webinar to discuss the Rules, the editor of *The Wire* M. K. Venu mentioned how the Rules seem unnecessary given that sedition and other more stringent laws are already used to target journalists in India (Newslandry 2021, 33:10). In response, Dhanya Rajendran of *The News Minute* highlighted that the Rules are unique compared to existing laws because they "weaponize grievances" to control the press (Newslandry 2021, 34:10). Likewise, an op-ed by a lawyer titled "How 'Grievance Redressal' Under the New IT Rules Amounts to Unlawful Harassment of Media" states:

"Any person may lodge a grievance with the publisher if they have any problem with the content published, thereby equating the free press with any product or service sold in the market. There is no definition of, or restriction on, what may constitute a grievance, and hence no limitation on the nature of quibbles that any person may bring against the publisher. Effectively, the IT Rules transform reporters and editors into merchants and readers into buyers, and journalism is deemed a commodity that may be bargained over, negotiated and even returned [emphasis added]." (Mathew 2021)

Below are three themes within the critiques:

The process is the punishment: Digital news outlets have 15 days to address the grievance and satisfy the complainant; otherwise, the complainant may appeal to the higher level of the grievance redressal mechanism which has the powers to punish and censor. A Supreme Court lawyer wrote that if digital news platforms “are to be flooded with thousands of grievances from thousands of persons on a daily/weekly/monthly or yearly basis, digital media would certainly stand to suffer in terms of credibility and circulation, threatening their very existence. The Rules will keep them engaged in grievance redressal and tie them up completely beyond comprehension.” (Dave 2021). In a webinar, Rajendran from *The News Minute* shared how the grievance redressal mechanism has heavy costs for her small digital news outlet. She said that they received 35 complaints for a single article and their Grievance Officer had to respond to each of them to keep the complaint from escalating (Newslaundry 2021, 13:15). Although Rajendran did not share the details of the complaints, the difficulty here is not that the complaints are violent or abusive. Rather, the burden of swiftly resolving “grievances” and the threat of punishment by higher levels of the grievance redressal mechanism makes mob censorship possible. As Philipose (2021) put it, the Rules create “a Kafkaesque criminal justice maze” from which journalists “may never emerge with enough stamina.” More generally, implicating dissidents in legal processes has become a general tactic for punishment (Freedom House 2021; RSF 2021).

Who defines “Grievance”?: Any critique of *Hindutva* can be seen as a “grievance” by the vigilante publics (Banaji 2018) and the Hindu nationalist government. In a webinar organized by *The Wire*, Ritu Kapur of *The Quint* asked that who will decide when a news report has truly hurt India’s “sovereignty” and “integrity” in a climate of the hyper-nationalism when “so many people’s sentiments get offended every hour and every day [in response to news stories critical of the Modi government]” (The Wire 2021b, 16:25), and what will happen if a digital news outlet has adequately addressed a grievance it received, but the upper tiers of grievance redressal mechanism disagree (The Wire 2021b, 15:12)? The answer to these rhetorical questions is that the government has the final word; as the editor of *The Wire* Siddharth Varadarajan states, “granting an inter-ministerial committee of bureaucrats the power to pass judgment on whether a media platform has responded adequately to grievances raised by members of the public has no basis in law and will amount to killing freedom of the press in India” (The Wire 2021a).

Deployment of existing online Hindutva infrastructures: Kapur from *The Quint* describes the threat from “trolls and IT Cells” weaponizing IT Rules (The Wire 2021b, 16:35), while Venu from *The Wire* states that “the political forces will organize some 500 complaints everyday” (Newslaundry 2021, 42:50). An editorial in *The Times of India* (2021) mentions that the Rules “could both encourage strong-arming by the state and trolls mounting a deluge on a selected media target, to hurt it punitively”. The fear here is that existing online infrastructures of *Hindutva* and vigilante publics will be mobilized to weaponize the Rules against digital news organizations. As frequent targets, the aforementioned native digital news organizations have often led investigations into online *Hindutva* networks. For example, an investigation by the digital media outlet *Newslaundry* uncovered an online network of 20,000 volunteers led by the BJP leader – who is accused of inciting the anti-Muslim riots in Delhi in 2020 – to work “in an organized fashion to create

and spread communal hatred” (Thakur and Sahasrabhojane 2021). Recently, scholars have also started looking at these online *Hindutva* ecosystems (Mukherjee 2020; Nizaruddin 2021; Udupa 2019).

Discussion and Conclusion

The constitutionality of the IT Rules 2021 is currently under challenge across multiple courts (Freedom House 2021). But the Indian government believes that the Rules will be inspirational for governments in other countries; it stated that “at a time when the digital media governance is in a state of flux across the globe, the Digital Media Ethics Code is thus a transformative step which would raise India’s stature at an international level and serve as a model for other nations to emulate” (MIB 2021b). While other governments may or may not emulate the Rules, this statement speaks to the scale of the Indian government’s vision, and it might predict the direction of its future policies regarding the regulation of digital journalism.

The Indian government’s rhetoric draws from conversations happening globally on how to regulate hyper-commercialized news media systems and online spaces in a democratic manner (e.g., see the special issue: Napoli, 2020); it has repeatedly told the international community that the Rules were created democratically after “broad consultations” (Permanent Mission of India to UN 2021) even though it did not include the digital news media (PIB 2021, 33:50). Multiple high-profile BJP officials have stated how press freedom has to be “responsible” and follow “reasonable restrictions” (Irani 2021; Javadekar 2021; Shah 2021). This raises questions regarding how we should understand news media’s “accountability to the public” under right-wing populism. As shown in this article, a criticism of the Rules is that the Indian government is trying to censor the press according to the whims of the vigilante publics, while falsely framing this issue as the news media’s accountability to the public.

Indian journalists’ apprehensions regarding the rules are that the executive branch of the government can allow the vigilante publics to harass and silence the press, in a context where the vigilante publics already wield a lot of power within online spaces. The existing scholarship on online harassment of journalists is extensive (Bossio and Holton 2021; Waisbord 2020), and it has focused on important structural dimensions of the phenomenon, such as the harassment of female journalists (Chen et al. 2020; Koirala 2020). But Indian journalists’ apprehensions shed light on an additional dimension of online harassment which this scholarship has often overlooked: the industrial scale that the harassment can take if it is funded, organized, or supported by the state or political parties (for an exception, see Kargar and Rauchfleisch 2019). As described in this article, the existing harassment of journalists in India is in good part organized by the “IT cells” which are a political wing of parties like the BJP. The observed online harassment of journalists in India is therefore a mix of grassroots mobilization with sophisticated and concerted state-backed efforts.

The IT Rules 2021 were introduced during a period when “fake news” has been a global concern. In the field of communication at large, the scholarship on fake news frequently overlooks questions such as who in the society has the power to define fake news, what that definition is, and what are the implications of this definition (Abhishek

2021; Egelhofer and Lecheler 2019). These questions are important because governments – especially in the Global South – are defining the fake news issue such that they can justify curbing press freedom; the IT Rules illustrate this trend. According to lists compiled by RSF (2017) and Poynter (Funke and Flamini n.d.) the following countries have introduced laws, legal revisions, and draft bills which target press freedom: Bangladesh, Brazil, Burkina Faso, Cambodia, Chile, Egypt, Kenya, Madagascar, Malaysia, Singapore, South Africa, Sri Lanka, Thailand, and Vietnam; but the list is likely longer. This situation is starkly different from countries in the Global North such as the United States, where there are relatively stronger protections for freedom of speech. It is therefore important that scholars expand the ways in which they study the fake news crisis so that the scholarship is relevant to the major concerns in the Global South.

Finally, the fact that the most vocal opposition to the IT Rules 2021 came from a very small section of the news media sheds light on the complexity of the Indian news media landscape and also raises multiple questions. The most important one is that in a diverse, large, postcolonial country like India, how can we theorize the variation in press freedom across language and region, and across native digital versus legacy organizations? According to Paul and Palmer (2022), English-language reporters in urban areas have much higher levels of protections than Hindi reporters in rural areas; the latter face risk from their proximity to local criminals, lack of institutional and legal support, and receive meager wages. They argue that hierarchies of caste and gender – which vary greatly by region – threaten press freedom in ways quite different relative to top-down legal mechanisms like the IT Rules 2021. This article suggests that the government might prefer legal means to specifically control English-language news organizations. This is perhaps because they are mostly located in urban centers where power is exerted more formally through law enforcement agencies, rather than through extrajudicial coercion by criminals and political actors as may be the case in rural areas. In addition, the non-confrontational response from the legacy news organizations to the Rules – relative to native digital news organizations' active mobilization – provides insights into the state of press freedom in contemporary India. In general, native digital news organizations have been able to maintain some independence, for this reason they have been the target of direct assault from the government seeking to “neutralize” their power (Group of Ministers 2020, 12, 19). Understanding these dynamics is crucial for studying censorship in India and linguistically and regionally diverse contexts elsewhere.

Notes

1. The press conference was in English and Hindi. I translated and edited the quotes for brevity.
2. This contradicts the government's claim to the UN, namely, that they undertook “broad consultations” with relevant stakeholders (Permanent Mission of India to UN 2021), implicitly implying that they consulted with digital news media as well and had their support.
3. The issue raised here regarding social media is, of course, a very serious concern, but the Modi government has played an active role in creating this problem (Zakrzewski et al. 2021)
4. Created by the author, based on the government documents on IT Rules 2021 (see references).

5. Created by the author, based on the government documents defining the IT Rules 2021 (see references).

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