

## **Bibliography details**

**Name of the Serial/Publication:** Veritas

**Volume No.:** 1

**Issue No.:** 1

**Month & Year of publication:** August 2021

**Page numbers:** Literature Review (84-86)

**Title of Article:** What does the Information Technology (IT) rules, 2021 mean to us? - A review

**Contributor (s)**

1. Prof. Jeremiah Justus. M

# WHAT DOES THE INFORMATION TECHNOLOGY (IT) RULES, 2021 MEAN TO US? - A REVIEW

Prof. Jeremiah Justus. M

What are the IT rules, 2021 which was recently passed by the Government of India (GoI)?

The IT rules, 2021 are a follow-up to the Intermediary Guidelines and Digital Media ethics code passed in 2011 and later amended in 2018 by the GoI. The IT rules, 2021 is a significant move from the GoI because for the first time India has a regulatory mechanism for digital media usage & propagation and Over-the-Top (OTT) broadcasting material.

Before the IT rules, 2021, didn't the IT Act 2000 regulate digital media propagation?

The IT Act is a framework that the GoI legislated in 2000 to govern electronic commerce and to deal with cybercrime. But with the rise of fake news, misuse of social media and OTT broadcast platforms, India needed a regulation. The IT Act had a loophole where the intermediary (the person who did not create the file but only passed it on) was considered a protected liability and therefore will go unpunished. The IT rules, 2021 addressed this loophole.

What led to the passage of the IT rules, 2021?

In 2018, in a case relating to the circulation of videos that included explicit sexual violence and rape (Prajwala vs. Union of India), the Supreme court summoned the ASG, India along with representatives of



Yahoo, Facebook, Google, Microsoft and WhatsApp to question them about the rampant spread of such media online. After the hearing, the court ruled that “the Gol may frame necessary guidelines / SOP and implement them within 2 weeks so as to eliminate child pornography, rape and gang rape imageries, videos and sites in content hosting platforms and other applications.”

Following this, the Gol tabled the draft IT rules 2018 during the monsoon session of the Parliament, 2018. During the discussion on the draft rules, the Gol also identified the need to place restrictions on online mediums (including social media, online forums and OTT platforms) from spreading not only sexual imagery but also fake news and prevent misuse of the on-line mediums. The Gol decided to set up a parliamentary panel to study the effect of pornography on children and the effect of fake news on society. The panel report was tabled in 2020. Following the panel report, the Gol also held an open house to discuss the rules on 5th January 2019 followed by ten days for counter comments on the draft rules.

These draft rules, 2018 after many arguments and amendments, were finally passed as the IT rules, 2021 on 25th February 2021.

### **What does the IT rules, 2021 hold for a citizen of India?**

1. A person who shares electronic media online needs to do it with due diligence. No one must spread information that could be defamatory, obscene, pedophilic, harmful to a child, infringes any patent or trademark, deceives or misleads from facts, impersonates another person, threatens the unity and integrity of the nation etc. An offence from the above could attract punishment.
2. Every online media platform must prominently publish the rules & regulation of posting media and their policy in this regard.
3. Due diligence must be observed in posting media in relation to news and current affairs content (Fake news or unverified news must never be shared).

4. Films and other entertainment programs, including web-based serials (OTT platform) have also been brought under the ambit of censorship and they must mention the context, theme, tone and target audience while applying for clearance.

5. Any electronic media which may portray discrimination, psychotropic substances, liquor, smoking and tobacco, imitable criminal and violent behaviour, bad language and obscenity would qualify for a higher category of classification.

**References:**

- The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 as published on meity.gov.in
- Prajwala Letter Suo Moto Writ Petition (CRL) No(s). 3/2015.
- <https://www.idsa.in/idsacomments/it-rules-2021-dbhattacharya-040621>

**Myth** - Evidence can be collected from the crime scene using whatever method and the evidence will still reveal a lot of things.

**Fact** - Evidence collection is a very crucial process which has to be followed properly. If the evidence is not properly collected using the standard method, it will not be considered by the court and it leads to unnecessary wastage of evidence.

**Myth** - Crime scene photography is the only method of documentation done.

**Fact** - Crime scenes are usually documented using sketches, notes, photography and videography.