

# Reading the content regulation debate in India:

## Questions on technology-mediated violence and the remit of the law

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# 1. The defining moment in India's online content regulation debate



Shreya Singhal vs Union of India

- Repeal of Section 66A for its excessive, unreasonable and unjustifiable curbs on free speech.
- Taking away intermediaries' discretionary powers for content regulation, by reading down Internet Intermediary Rules 2011

2. The question that remains: Effectively balancing the right to free speech with women's right to freedom from violence in digital times

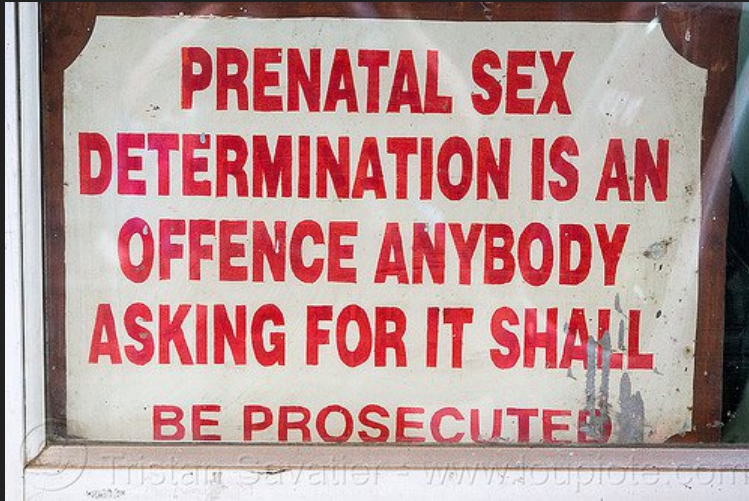
**Domestic violence and Facebook: harassment takes new forms in the social media age**

**Salem: Morphed Facebook images drive woman to suicide**

**16-year-old gangraped in Meerut, video shared on WhatsApp**

How should we define the remit of the law?

### 3. A tale of 2 cases



Sabu Mathew George vs. Union of India



Suo-moto PIL on circulation of gang-rape videos on platforms such as WhatsApp

### 3. A tale of 2 cases (contd.)

- In both cases, Court leaned towards proactive filtering and preemptive blocking
- In the Sabu Mathew Case:
  - blocking of specific websites advertising such services as well as keyword filtering; autoblocking of such content
  - constitution of a nodal agency to issue clarifications about disputed content.
- In the gang rape videos Case,
  - proactive action by Internet intermediaries to curb circulation of such content. “Can’t you prevent the upload of such videos?”

### 3. A tale of 2 cases (contd.)

- Is the court bringing in draconian censorship legislation back that will “leave large swathes of the Internet off limits?”
- While we may disagree with the specific directions, the overall issue raised by the Court are important to engage with: the need to move beyond a ‘cookie-cutter’ notice-and-take down approach to content regulation  
“Take for instance, nobody has reported gang rape videos, do you act on your own to decipher it?” – Court’s question to intermediaries in the PIL on gang rape videos

The debate on “auto-blocking” in Sabu Mathew George vs Union of India

### 3. A tale of 2 cases (contd.)

Issue 1. The distinction between infringing content and manifestly unlawful content

Issue 2. Intermediary double speak on preemptive filtering

## 4. Revisiting the contentious debate on regulation of online porn

- new angles to the old question.
    - Porn becoming a constituent of acts of rape/ gender based violence. (Victims of rape/assault forced to watch porn by their assailants.)
- So it is no longer just about symbolic violence.



## 4. Online porn (contd.)

- the ubiquity of porn that depicts graphic violence.

The mythification of desire as aggressive fantasy in platform capitalism which commodifies porn.

## 4. Online porn (contd.)

- Uploads of intimate pictures and photos without consent.

Pre-digital distinctions between private possession of pornographic material and putting such material into active circulation, difficult to maintain.

## 5. In the final analysis – What are the broader questions this debate raises wrt defining the remit of the law?

- Content regulation – regulation of powerful platform aggregators who control the online public sphere. Essential in the era of prosumer content production and viral networking.
- A frame that acknowledges tech-mediated violence as more than a “speech and representation” issue.
- When we look for tech-mediated solutions – in filtering and blocking, for instance, recognise technology as an instrument for enforcement of the law rather than a replacement.

