



POLICY TAKEAWAYS

DAY 2, SESSION 3.4. STATE GOVERNANCE IN DIGITAL INDIA

The Legal Regulation of Online Hate Speech and Virality in India: A Case Study

Siddharth Narrain, University of New South Wales

Big Tech provides a platform for political speech and global information distribution. The norms that a particular platform uses in one jurisdiction or country may not align with those in other locations and this can cause tensions. Facebook, for example, has created an independent Board to oversee its content. Such self-regulating bodies may act regionally and provide contextualized interpretation based upon local jurisdictions laws. There is evidence that Board rulings relating to events in India have modified Facebook's internal policies. As such, Indian events and laws may now be influencing Facebook's global policies.



Image: Jason Leung / Unsplash

Key Takeaways

1

Internal Facebook Oversight Board aims to constrain hate speech.

Facebook has positioned itself as the protector of free speech (a claim identified by its founder as “voice”). Content posted on the platform must adhere to “Community Standards” that includes four values: Dignity, Safety, Privacy and Authenticity. At Facebook an independent Oversight Board is in charge of overseeing these standards and any controversial content. The Board is composed of 20 members (India, Pakistan and Australia all have one representative each) and makes its decision by a majority vote in panels of 5 members.

2

Facebook's Oversight Board actions to date on hate speech in India.

In 2021 the Oversight Board issued two decisions regarding content taken down by Facebook from its platform. In the first case, which led to the farmers' protests, the Board decided that the values of voice and dignity and the right of minorities and the opposition to dissent were under threat. In the second case, related to comments about violence against non-Muslims, the majority of the board valued the principle of voice over security and considered that the international context of rising religious violence was not applicable to India. In both cases, the board considered the country-specific context, ignoring the platform's global interests.

3

India's Domestic Laws Inform Facebook's Oversight Board.

Facebook has traditionally made a distinction between “concepts” and “people”; allowing offensive speech against concepts but not people. However, this internal policy has recently been revised, such that an attack on a concept that may intimidate or result in physical harm can be removed from the platform. This change has been driven by India's regional office which has relied on the country's penal code to argue there is no distinction between harm to people or concepts when it comes to religion.

For further details, please contact:

Dr Allison Fish
Postdoctoral Research Fellow
UQ Centre for Policy Futures
a.fish@uq.edu.au
www.policy-futures.centre.uq.edu.au