



From Autonomy to Anonymity: Information Technology Policy and Changing Politics of the Media System in Indian Democracy

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Abstract

The prominence of information and communications technology (ICTs) in defining India's media modernity can be gauged by the growing reach of online social media as well as continuing expansion of digital media channels and satellite broadcasting even in the early 21st Century. Policies concerning information technologies, from telegraph to satellite networks, have also been central to media politics and with the rise of new media, internet related policies have similarly become pivotal to the interaction between the state and media system. Drawing from a comparative media system perspective, this paper argues that while there has been no major constitutional or legal overhaul, as yet, new ideas and information technology policy activism are reshaping the contours of state action and 'autonomy' of the press in India's democracy. Comparing technology debates in an earlier era, when satellite networks swept across the media system, with the more recent deliberations around liabilities for digital intermediaries, the paper unpacks the nature of change and locates its origins in the revival of discursive institutions (Schmidt 2002, 2008) of technology policy since the early 2000s. Technology related ideas, I argue, now serve as institutions, able to function as a 'coordinating discourse' (ibid) that have revived ideals of an autonomous media. Technology inflected ideals of 'anonymity' also counter the 'communicative discourse' (ibid) of *Hindutva* and cultural nationalist politics of media which framed the issue of autonomy in the ascendant phase of print and electronic media capitalism until the 1990s.

Keywords: Media System, India, Autonomy, Anonymity, Technology, Policy

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From Autonomy to Anonymity: Information technology policy and changing politics of the media system in Indian democracy

The prominence of information and communications technology (ICTs) in defining India's media modernity can be gauged by the growing reach of online social media as well as continuing expansion of digital media channels and satellite broadcasting in the early 21st Century. Today, even as more than hundreds of news channels continuously beam their content across hundreds of millions of television screens, online networks are bringing sweeping changes in the media system. In spite of persistent inequality in access and use of these networks, the internet and ICTs have made technology a core component of India's mediated public sphere, and debates and contentions around information technology policy are also driving changes in the nature and functioning of India's media system.

In this paper, taking the context of technology policy, I explain how debates around the internet are influencing the media system, particularly in terms of the autonomy enjoyed by the press in India. Drawing from contemporary history, I analyse the changing structures and discourse of technology policy and argue that while there has been no major constitutional or legal overhaul, as yet, new ideas and activism, such as those seeking a right to privacy and 'anonymity', are reshaping the contours of state action and autonomy of the press from private and commercial interests. Moreover, this shift also marks a rupture from the past when autonomy was defined largely within a cultural nationalist framework forged under the *Hindutva*-dominated media politics in the post-colonial era.

In theoretical terms, rather than take a technological deterministic view, the essay focusses on the role of contending ideas and technology related activism as discursive institutions (Schmidt 2002, 2008) which have revived progressive forces that resist the *Hindutva* agenda, particularly in enhancing the autonomy of the press. In doing so, the paper draws from comparative media system studies and reformulates India's case with the help of concepts from discursive and historical institutionalist theories of policy change (Schmidt 2008, Beland 2009). In this way it seeks to add a technology policy dimension to media politics and in turn, implicates technological change in the politics of policy in India. This double movement is often lost in static theories of political economy of media system which see technology as being subservient to a particular variety of 'print capitalism' (Anderson 2006, Jeffrey 2009) and overlook the role of ideas as institutions capable of resisting dominant political and ideological forces like *Hindutva* in India.

Ideas as institutions: Media system beyond print capitalism

Rather than explain changes in media system as an outcome of a 'balance of power' between the state and industry at any moment in history (van Cuilenburg & McQuail 2003), this essay emphasises the role of ideas, including ideological interpretations of technology, as a crucial factor in defining autonomy of the press. In other words, we need to move from political economy to politics of media systems and consider the role of parties, legislature as well as technology activism in defining the growth and diversity of media platforms. The focus on technology policy also contributes to the growing literature on telecommunications and ICT related laws (Acharya 2015, Raghavan 2007) while providing a unique lens to understand how public activism and politics shapes the contours of state action.

This *ideational dimension* of technology policy is often lost in much of the 'media system' literature, which limits the role of the state simply as a 'rational legal authority'. Hallin and Mancini have argued that 'the press always takes on the form and coloration of the social and political structures within which it operates' (2004:2) but their analysis reduces the ambit of politics to the notion of 'political parallelism' that categorises media systems in broad varieties of print capitalism, while ignoring the way in which parties and ideologies often influence state action in very political ways. Recent comparative media scholarship from non-Western contexts have drawn attention to the limitation of such modelling, particularly in China where an ideologically motivated, one-party state dominates the media system even as it promotes technological innovations in media markets (Zhao 2012).

Hence it is important to recognise that technology policy is a crucial lever for political forces that seek to utilise the media system both as a conduit to expand their reach as well as a site to demonstrate ideological hegemony. Even in a democratic context, policies can restrict citizens' right to an independent press which exercises autonomy not just from the state but also private interests. In the context of India, current literature on media systems largely rehearses the variety of print capitalism approach, which sees growth in the print (Jeffrey 2009) and electronic media (Mehta 2015) as a result of changes in wider economy as well as everyday practices of Indian media consumers. By dissecting the ideological structures of politics of digitalisation and even technological globalisation, which does not necessarily coincide with economic liberalisation (Sonwalkar 2001), this essay shifts attention to themes of technology policy activism and ideas to understand the changes in the autonomy of the press.

In celebratory accounts about the growth in newspaper readership and ever-expanding infrastructure of television media to 'billion screens' (Mehta 2015), public contentions surrounding autonomy of online bloggers and routine harassment of journalists has largely been ignored. My focus on technology policy helps underline these struggles for the media system, and shows how technolo-

gists are playing a crucial role in changing the pathetic state of 'phantom journalism' which has become a trademark of the post-economic liberalisation (Saeed 2015). These trends have already led to several popular and parliamentary debates, particularly around questions of information technology policy since the early 2000s, but as yet there is no account which can contextualise why this domain has become a primary arena for debating autonomy alongside the more conventional arena of media political economy.

A focus on technology policy as a lens to understand media politics takes us beyond conventional political economy of media system. Instead of seeing India's case as another variant of the print capitalism that developed in Europe, we can consider evidence that links the rise of unethical and communal forms of journalism in a capitalist media system of the 1990s with the rise of *Hindutva*. While it is well known that *Hindutva* as an ideological movement was able to use mass media to expand its cultural nationalist and Hindu majoritarian version of Indian state (Jaffrelot 1999, Rajagopal 2011, Banaji 2018), there are as yet very few accounts which can show why the *Hindutva* forces have been unable to control the new media system, as yet, even though they took hold of the electoral system in 2014 (Palshikar 2017).

A focus on policy also highlights the changes in the structures and institutions of policy-making in India, and understand how ideological forces operate in the domain of policy and not just the public sphere (Habermas 1989). Using the rise of the internet as a crucial moment of technology policy-making, we can also explain *how* alternative ideas have challenged this *Hindutva* politics in the recent years. But before we analyse the ideational and institutional roots of ongoing contentions around intermediary liability, we need to revisit institutions of technology policy to understand the role of *Hindutva* in setting the stage for the rise of electronic media capitalism and news broadcasting until the 1990s.

Post-colonial media system: Standing on a weak discourse of autonomy

Before we begin to analyse the course of recent contentions, it is important to revisit the historical context in which India's media system had evolved, particularly since the emergence of satellite networks which brought along a drastic growth of television media infrastructure (Narayan 2014). While scholars have argued that a cultural nationalist television system took hold in the country in the late 1990s (Rajagopal 2001), little is understood about the role of ideologies and politics in shaping the contours of autonomy of the press and electronic news media at the time. In order to better grasp the basis for right-wing media activism in contemporary India, we can turn to historical and 'discursive institutionalist' theories

(Schmidt 2002, 2008; Beland 2009) which emphasise the role of ideational actors who mediate in the political economy of policy-making.

The role of *Hindutva* has so far been seen largely within the limited context of content production and its reception in India's mediated public sphere (Rajagopal 2001). But the ways it *institutionalises* and structures technology adoption in media system has been overlooked, particularly in accounts of broadcast technology and mass media policy (Jeffrey 2006). My approach diverges from conventional political economy accounts to reconsider how *Hindutva* and other ideological forces actively reformulate policy and work as institutions that reformulate media system in its own image. To understand the dynamics of institutionalization, I turn to the works of Schmidt (2002, 2008), and explore the way in which ideological movements and activism can undermine the 'background ideational abilities' that are necessary for public policy *coordination* among key stakeholders. Instead they function in tandem with a '*communicative discourse*' (ibid) of policy, which relies on mass appeal and communication to legitimise policy agenda.

In order to understand how ideas shaped technology policy in contemporary Indian history for instance, we need to begin by analysing the relationship between the state's official discourse and deliberations in the Parliament and consider how ideological and party politics came to have an impact on it. To be sure, India's media system was not always dominated by *Hindutva* or similar ideologies. In fact, at the time of independence, there were several independent institutions, including professional media unions and civil society organisations which played the crucial *coordinating* role in technology policy related decision-making. Public activism of groups like the All-India Editors' Conference (A-INEC) and the more radical Indian Federation of Working Journalists (IFWJ) which were also active in campaigning against telegraph and radio technology laws, provided institutionalised mechanism as far as negotiating the nature of autonomy of the press was concerned.¹

To really appreciate the coordinating role of these unions, we also need to understand the democratic nature of their discourse through which they sought to structure influence the direction of media and telegraph policy at the time. Throughout the 1940s, A-INEC leadership joined various popular, anti-colonial movements and also took a keen interest in emerging technologies which they saw as central to the advancement of the press. Their *coordinating* role emerged from the fact that the leadership of groups like A-INEC did not need to just rely on populist articulations but engaged public deliberations with legal and statutory institutions, including in the first major Parliamentary review of the press laws in India. Among other demands, its leadership sought the scrapping of the Indian Telegraph Act of 1885 which was seen to be a direct assault on the freedom of the press from surveillance by the colonial state.²

Even before that, in the wake of the crackdown during the Quit India movement for instance, A-INEC came up with a policy framework that would enhance what it called 'freedom of information' and autonomy of the press. Taking into account the emerging technological advancements, they called for complete 'emancipation of radio and sources of information from monopolistic control either of the government or private agencies.'³ As a founding member of A-INEC, as well as the editor of the *National Herald* and its sister publication *Qaumi Awaaz*, Congress party leader and later independent India's first Prime Minister Jawaharlal Nehru was the symbol of the potential of the union to play a crucial role in technology policy and shaping the media system at large. In his address, Nehru often promised that his party would curb the powers of the 'big press' which put 'vested interests' of the owners over and above the role of the press in India's democracy.⁴

But in spite of these early formations, the *coordinating* discourse of technology policy was limited, and assertions about reforming telegraph and wireless technology policies did not come to fruition. Moreover, the rise of *Hindutva* and communalism in the aftermath of a catastrophic territorial 'Partition' of the subcontinent also ensured that Nehru's commitment to reform weakened swiftly. From our perspective what is crucial is that in mid-20th century, technology policy and powers accorded through laws like the Telegraph Act was barely touched by the progressive movement for independence, while organisations like A-INEC lost their pivotal role in the policy domain. Instead of coordination with technologists, media system in India became reliant on a conservative and even communal *communicative* discourse which framed issues of technology highly in cultural nationalist terms.

Slowly, but steadily, leadership at the helm of institutions like the Ministry of Information & Broadcasting side-lined groups like the A-INEC and IFWJ. Instead of Nehru, more conservative Congress party leaders like VB Patel took over as the first I&B minister and combined, what Jeffrey (2006) has called, a kind of 'Gandhian asceticism' with an impulse to utilise the press as a means of statecraft.⁵ In contrast to Nehru who had courted institutions like A-INEC and actively nurtured the more progressive Indian Federation of Working Journalists (IFWJ), Patel and his successors relied more and more on ideological co-option, and did not shy from using censorship to censure anyone breaking the mould in which they wanted to carve the emerging media system.

Ignoring the value of public coordination and policy deliberations, this weakness resulted policy agenda being set from above; marginalising voices seeking to open India's telegraph services and in favour of continuing with colonial era legislations. For instance, on the issue of content regulation, rather than embracing public inputs, Patel worried about the courts which he argued could 'knock the bottom out of the press regulation.'⁶ From the time when India's new republic

came into existence, demands to reform the Telegraph Act were ignored, while successive governments pushed for stronger curbs rather than open public debates (Chadrachud 2017).

Apathy among professional media groups followed, and was already evident the run-up to the first amendment which saw A-INEC condemning the government's motives and even calling for a general strike against the decision to amend the Article 19. Demands for stopping the amendment were raised by several editors and journalists from across the media system including *The Hindu*, *The Times of India*, *Hindustan Times*. These threats indicated the weakness in coordination among key policy stakeholders, although with the involvement of Prime Minister, eventually the strike was called off. With Nehru as the pivot, the government in independent India could still convince others of its intentions, and only a handful of small newspapers came out to protest (Nair 1951).

Technology policy in the age of cultural nationalism

But if the leadership in the independence era had taken a turn away from nurturing strong coordinating institutions, within the significant domain of technology policy there was an ever growing reliance on personality in the following decades. Instead of horizontal coordination, the debate around satellite networking came to rely more and more on a communicative discourse, which saw the political leadership of the day turn further towards themes of cultural nationalism rather than public deliberations. Even as the international technology policy debates saw the emergence of a global movement for a new international order (which later institutionalised in a formal institution called the 'New World Information and Communication Order' [NWICO] roundtable), policy deliberations in India came to centre around populist themes of culture and 'foreign' influence through mass media.

In post-colonial India, debates around technology took place more and more in isolation from the critical public sphere, a scenario encouraged by policy discourse under Indira Gandhi who took over the Minister for Information and Broadcasting in 1963. An early instance of the impact of cultural nationalism can be traced back to this era, when opposition groups including the political wing of *Hindutva* groups among others, raised hue and cry against the proposed installation of high-quality transmitters to be set up in partnership with the Voice of America (VOA) along India's frontiers. Instead of highlighting the need for redistributing world's communication resources, which was initially at the heart of the international negotiations and campaigns for NWICO,⁷ the issue of 'foreign' technology became central to policy discourse both within Parliament and beyond.

For Prime Minister Nehru, acting in the wake of Chinese aggression of 1962, the emergence of long distance transmission and satellite technology were to provide strategic support to India's military strategy and coordinate a response based on limiting the 'vicious and venomous propaganda against the Government of India by Chinese broadcasting services'.⁸ In the Parliament, and later beyond, the opposition, which included the representatives from *Hindutva* movement, the issue was to be framed in terms of cultural nationalism. Opposition MPs related the effort to limit Chinese propaganda as a breach of India's territorial and cultural sovereignty, and eventually forced the Prime Minister to backtrack in his bid to allow 'foreign' transmitters on Indian soil (Times of India 1963).

The internationalization of technology and telecommunications policy could have empowered the Indian media system to enrich its practices with global innovations, instead its fate fell into the hand of cultural chauvinists. In Europe and many Latin American and African countries, in contrast, technology policies were proactively advanced to achieve a very different purpose. For instance, through the Intergovernmental Bureau for Informatics (IBI), an international forum that emerged in the mid-1960s and sought to popularise local use of satellite networking and social informatics, many African nations were able to expand their domestic media and communications systems. New ideas and initiatives like the IBI which promised the 'socialization of informatics' (Pohle 2012: 109), could have also benefitted India's media system at the time but the populist turn in policy and weak institutions upended any such possibility.

Instead, the emergence of satellite networks and subsequent policy negotiations around autonomy of public service broadcasting was framed in terms that eventually benefitted and legitimised the *Hindutva* agenda. In the Parliament, Nehru's daughter and political successor Indira Gandhi who took over the reins of the Congress party in the late 1960s ignored demands for a wider debate on technology policy. Instead of reviving public consultations through a media organisation like A-INEC, Mrs Gandhi dealt with technological change through the lens of political expediency. In 1966, when an experts' committee, headed by a retired justice, submitted its five-volume report to the Parliament, calling for reforming state intervention to support the autonomy of the press, Prime Minister Gandhi cut short the legislative review, arguing that 'time was not right' for considering such a sensitive matter (Committee on *Broadcasting* and Information Media 1964).

Initially, the issue of autonomy remained tied to themes of satellite networking policy only tangentially, buried within the debates tied to the changing political economy of television and electronic media system (Sridharan 1996). But gradually, as Indira Gandhi and later her opponents sought to exploit mass media to build their electoral and political appeal among the masses, the debate in tech-

nology policy also saw a turn towards cultural populism that relied on rhetoric and pomp rather than policy and public advocacy. In particular, Indira Gandhi was able to replace policy coordination with a communicative discourse which reworked themes of Third World ideology to suit her party-political and personal agenda.

The spectacle of technology policy propaganda was in full display at the various non-aligned movement (NAM) summits hosted in Delhi for journalists from non-Western world. At one such event, in 1983, Prime Minister Gandhi even equated the rise of satellite networking with the Orwellian surveillance system, calling 'the eye in the sky' a real threat to sovereignty of NAM nations. At least in her popular rhetoric she did not completely abandon the progressive strand of NWICO, although it often came alongside severe criticism of 'Western press' which she often equated with criticism of her own government (Times of India 1983).

Prime Minister Gandhi also routinely cited the use of satellite technologies as having the potential to carry out surveillance while making no commitment to reforming domestic telegraph laws that allowed the state to do the same at home. Meanwhile, the decline in the institutions of policy coordination deepened with each passing year, with the nineteen-month state crackdown on civil liberties that began in 1975, notorious as 'the Emergency', marking a crucial moment in the re-making of mass media in India (Rajagopal 2011). In the course of the Emergency the Prime Minister not only abolished crucial bodies like the Press Council of India which were set up to guard the autonomy of the press in India, but also came to directly control a host of agencies and ministries responsible for technology policy. In contrast, the 'All-India' groups went into a sharp decline, with A-IN-EC reconstituting itself as the Bombay Union of Journalists (BUJ) in 1984. Their decline mirrored the growing role of powerful party leaders in policy debates, a fact evident to all, including the A-IN-EC's national leadership that acknowledged it as a 'fact of life' (Nihal Singh 1980).

Hindutva and technology policy: Empowering mass communication over deliberations

Although the emphasis on state control might indicate a 'sovereignty-centric paradigm', as defined by van Cuilenberg and Mcquail (2003); in the Indian media system, from a discursive institutional perspective, the growing reliance on cultural populism was a result of a more complex reality. It marked the emergence of a media system that aligned with ideological forces which threatened the very fabric of press autonomy. Ironically, an editor of one of India's oldest and largest circulating English national daily, *The Times of India* publicly admitted that 'everyone knew what happened during Emergency' but there was no point speaking

out given the costs.⁹

More crucially, the Emergency era also helped the rise of *Hindutva* ideology which found its footing in technology policy debates also during this period. Particularly, in 1977, when following the victory of anti-Indira Gandhi forces in the election, a spokesman for *Hindutva* ideology in its mouthpiece *The Organiser*, LK Advani took charge as India's first non-Congress Minister for Information and Broadcasting.¹⁰ Once in charge, Advani consistently emphasised a communal and cultural nationalist ideology, while frequently speaking at NAM platforms in Asia as well as to journalists at home. Like his predecessors, Advani also championed ideals of NWICO but added a slant towards a more cultural nationalist interpretation to the debate around satellite networking as well as wider issue of technological globalisation that had prompted many countries to embrace IT as a means to accelerate their economic development (Evans 1995).

In the Parliament, throughout the Emergency era, the opposition parties, particularly the socialist and Left parties, tried to resist the communal ideas of *Hindutva* ideologues. For instance, when Advani tried to restructure the public broadcasting sector, opposition groups came together to decry the communal intent in his policy choices.¹¹ However, once in power, the *Hindutva* leadership revived the communicative discourse which had been set in motion by Prime Minister Indira Gandhi. This included upending efforts by journalists and technology activists, particularly those associated with the NWICO movement, to take advantage of the emerging technology and undermining key coordinating institutions that could empower community media networks in the country.¹²

Developing indigenous community radio systems was among the main recommendations of the Working Group on Mass Media set up soon after the end of the Emergency in 1978. The group was headed by BG Verghese, who was an active member of the NWICO movement, and they took up the issue of autonomy for community media and television in their review. In the context of technology policy, the Working Group had tried to utilise an alternative approach to suggest ways in which more decentralisation could cater to India's cultural diversity. But when the Working Group submitted its report to the Ministry, LK Advani dismissed their recommendations by arguing that 'we had promised autonomy but you have asked for complete independence'.¹³

So even as *Hindutva* forces came to control I&B ministry and policy arena, Minister Advani and his party organisation, most Left parties as well as related social movements which could have resisted *Hindutva* ideas largely ignored the rise of television news media both within the Parliament and beyond. Ironically, many prominent groups like the CPI(M) consistently added fuel to populist communicative discourse of 'foreign' influence with their own, often vacuous, dismissal of television media as a 'hybrid mix of spirituality, portrayal of women as sex

objects and crass consumerism.¹⁴ While some members of the secular alliances that emerged in the 1980s followed the Congress party led weak effort to counter *Hindutva* with its own ideal of cultural nationalism,¹⁵ the more radical Dalit and subaltern social movements against caste and communal injustice, that also grew in electoral prominence in the 1980s (Jaffrelot 1999), completely shunned the media autonomy debate. As Loynd (2006) has shown, this distancing from both news broadcasting as well as commercial print sector, was a remarkably stable feature of contemporary Dalit politics.

Even so, there were some *alternative* ideas which persisted, albeit away from mainstream technology policy and political sphere in India. Given the rapid technology expansion throughout South Asia in 1990s (Page & Crawley 2000), there were small but important groups emerging that were to have an impact on policy debates in the coming years. The most significant amongst these were the 'long revolution' in IT sector in India (Sharma 2012) and the arrival of the internet based new media technology. While it has been argued that the internet provides a 'playground for liberal ideas' in many parts of the world (Hofheinz 2005), in the Indian context, the internet and ICT related activism and ideas came to confront complex political realities of Post-colonial era.

It included the emergence of a grassroots Free and Open Source Software movement in the country, which had originated and spread largely due to the spread of the internet worldwide in the 1990s (Kelty 2008). However, unlike the reality in the more economically advanced parts of the world, in India, IT networks developed outside of the framework of telegraph and satellite networking laws. Several small Blackboard Services (BBS) servers were set up in India, in cities like Delhi, Mumbai and Bangalore, and as a result remained untouched by the logic of print capitalism that grew alongside a 'calculated communalism' of *Hindutva* politics in the 'Hindi heartland' of northern India (Ninan 2007).

In particular, Free and Open Source Software (FOSS) activist cultures emerged largely in southern Indian states like Kerala and Karnataka where the IT service sector drew in a range of individuals and social groups into its fold (Kelty 2008). Gradually, and most crucially, FOSS related activism gave rise to new discursive institutions and organisations that grew into a full-fledged technology policy networks over time. Over the last two decades, as the internet spread rapidly, these networks also connected with more Left-aligned groups like the Society for Knowledge Commons (SKC), a Delhi-based NGO whose leadership worked closely with the Communist Party of India (Marxist) over the years. These groups also had a more media-savvy approach than the central leadership, with activists framing FOSS as 'freedom software' that could enable reforms in the media system as well as the Indian economy at large.¹⁶

Reframing autonomy: Politics of media system after the IT Act of 2000

Throughout the 1990s, and particularly since the passage of the Information Technology of 2000, new internet-based networks have emerged as a hub for technology policy activism in India. These included FOSS campaigners and allied social networks which began to foreground questions of freedom of the press, including privacy rights of journalists as a primary goal of their movement. If the *Hindutva* politics of media system had relied on a communicative discourse of cultural nationalism and encouraged the rise of print and electronic media capitalism, FOSS related activism and ideas often relied on the internet to give rise to an alternative coordinating discourse of ICTs which sought to empower socially marginalised communities.

While sometime this resulted in technologists formally participating in political movements, as is the case with the leadership of SKC, quite often new media activist networks operated through unconventional routes; one that relied on the internet as a site to build camaraderie rather than political solidarity (Kelty 2008). This for instance was the case with online websites like India-GII which became a crucial node in the campaign for user privacy in India, by bringing together 'techies, academics, bureaucrats, activists and people simply interested in a critical look at India's telecommunications and internet growth' in the early 2000s.¹⁷

Technology policy eventually became the site for a clash between the competing ideas, but this time rather than *Hindutva* dominance the result was quite different. The passage of the IT Act in the year 2000 provided the immediate context, which saw the cultural nationalist *Bharatiya Janata Party* (BJP) led coalition pass a new law that was meant to enable faster spread of e-commerce networks in the country (Times of India 1999). But the law was also used, largely surreptitiously, as a lever to regulate content on online web portals, which, in the 1990s, were still not yet covered under the telegraph laws or agencies under the Ministry of I&B at the time. However, in their effort to avoid public deliberations the BJP ended up making technology policy a pivotal battleground for the future of media system, with issues of autonomy of emerging 'intermediaries' giving rise to competing alliances and ideologies both within the Parliament as well as in the new hybrid media system which saw dramatic changes in the digital era.

Most prominently, this was the rise of online whistleblowing websites, as in the case of with Tehelka.com, which famously saw largely unknown online media journalists exposing corruption deals and use the internet to circulate digital copies to audiences around the world.¹⁸ As a result of lack of clear framework for autonomy, several such cases got clubbed together under the technology policy context with the IT Act related guidelines becoming subject of intense public debates. The law itself was largely meant to limit circulation of explicit content

online, particularly in instances when online e-commerce websites were used to share highly objectionable content.¹⁹ But it also exposed the weakness in the existing framework for autonomy in the media system. In their urgency to pass IT laws, rather than address the concerns relating to content regulation in a digital 'convergence' environment, the BJP had used technology policy as a short cut to avoid wider public consultations.

On the challenge of convergence and online journalism, the Minister for Information and Broadcasting Pramod Mahajan, a *Hindutva* political strategist within the Parliament who at the time also held the portfolio for the newly constituted Ministry for Information Technology, in the late 1990s and early 2000s, repeatedly argued that 'there was no hurry' to introduce a new law. Instead, the BJP government used the IT Act as a means to legitimise its cultural nationalist agenda. It kept the 'media convergence' legislation pending until it lapsed with the dissolution of the Parliament in 2004. (Reditt.com 2002)

However, unlike the case in the past when the question of autonomy was confined to a communicative discourse, there was little scope to appeal to cultural nationalism in the heady days of technological globalisation. In 2004, as a Congress party led government returned to power, it was forced to acknowledge these shortcomings, and open the arena for FOSS activists who emerged as crucial intermediaries in policy debates that followed. With IT Act becoming a platform for a debate on the media system, questions ranging from access to copyright, alongside long pending issues around telecommunications and IT-related convergence, opened possibilities for an alternative alliance to take shape. Free and Open Source Software, these groups argued, was the only means to address the loopholes in the media system and reinstate the autonomy of Indian press in an era of digital convergence.

As stakes continued to rise, public debates became sharper and precipitated a crisis in 2008, when the UPA made fresh amendments to the IT Act, in which its leadership desperately tried to utilise the clause concerning intermediary liability as a means to regulate harmful content online. In addition, under revised Sections 66-69, it also added a new list of activities which, if undertaken, could be considered criminal, including production and distribution of content that could cause 'annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will' (IT (amendment) Act 2008). Unsurprisingly, the BJP and *Hindutva* leadership, which had originally conceived the IT Act, wholeheartedly backed these amendments (The Indian Express 2015).

But beneath the Parliamentary consensus, discontent brewed and an alternative discourse of autonomy emerged from a counter-alliance which sought the revocation of the amendments to the IT Act soon after. Although not stated as such, FOSS activism about online anonymity began to dominate technology poli-

cy fora in the late 2000s, including at international meets such as the Internet Governance Forum, held in Hyderabad in 2011. At such deliberations, FOSS activists like those from the Center for Internet and Society argued for a 'right to online anonymity' which they argued was significant for new media systems which they argued relies on 'anonymous officials from various ministries making statements to the press' (Abraham 2011).

Ideas beyond digital capitalism: Technology policy as a reform in media system

By reframing the issue of autonomy in technology inflected terms of anonymity, FOSS activists were able to provide a new explanation for the ills of Indian journalism and propose novel solutions for the media system at large. As Beland (2009) argues, diagnostic framing of key issues constitutes the first stage for ideas to impact policy. The next stage, Beland argues, is when new ideas provide a prognostic analysis, and showcase models and pathways to resolve outstanding policy problems. In the case of new media and technology policy debates, the alternative ideational alliance proved successful on both counts. In many ways, FOSS groups revived the coordinating role and idealism of groups like the A-INEC in the 1940s, which had similarly built alliances with political groups without necessarily compromising their own ideas or let cultural nationalism get the better of their arguments.

As already mentioned, technology policy groups like the Center for Internet and Society framed autonomy in terms of anonymity online,²⁰ while grassroots organisations like the Software Freedom Law Center and the Free Software Movement of India brought in a more political dimension to such arguments. In the Parliament, political support also came from the Left parties like the Communist Party of India (CPIM) which enhanced the coordinating role of FOSS ideas in technology policy activism, and in turn in the debate around media autonomy. As Thomas (2011: 182) has argued, at the grassroots level, the success of FOSS movement in India could be 'attributed to the specific political environment in the state (of Kerala)' where progressive and communist movements were far more engaged with questions of technology than the national leadership had ever been in the satellite era debates.

This coming together of grassroots technologists and IT and media industry linked think-tanks, constituted a discursive institution able to oppose *Hindutva* and cultural nationalist assertions. Not to be out done, but 2012 even the BJP leadership revised its own discourse of technology policy and proposed a solution that involved mixing its own ideology of cultural nationalism with the framework of new media capitalism. Rather than demand autonomy or anonymity for jour-

nalists and bloggers, *Hindutva* technology leadership made a promise to 'lure' digital capital to keep all its data within India and ensure that 'foreign' intermediaries would not violate what they called the 'digital sovereignty' of India.²¹

This *political* discourse of digital capitalism developed through a top-down structure, through its 'IT cell', which is organised in sharp contrast to the more horizontal networks developed by the Left parties and FOSS activists who relied on the internet both as a means to advance their ideas as well as engage with other like-minded NGOs and movements. While it originated in online networks like the India-GII, increasingly this alternative alliance drew in online and digital campaign sites and intermediaries like Change.org. A petition moved by the CPI(M) MP argued that the guidelines issued under Section 66-69 restricted online freedom and called on the Internet users to 'tell the government that it cannot use vaguely defined laws and loopholes to take away your freedom of speech and expression.'²²

By 2013, the question of autonomy now divided the *Hindutva* ideas from the more progressive strand of technology policy activism, and the intermediary liability clause in the IT Act emerged as a pivotal arena in the battle to redefine the contours of state intervention and autonomy of new media system in India. Within the Parliament the matter was raised consistently by member of the Communist Party of India (Marxist) who moved an annulment motion against guidelines with the support of many of the regional parties opposed to the BJP as well as from the Congress. By 2013, the UPA government agreed to form a Committee on Subordinate Legislation on IT Act and invited three of the leading FOSS groups to submit their view points before the house, and in turn in front of policy stakeholders in India.

Among the three groups which participated alongside the Left parties in the Parliament were some of the most well networked activists in India's technology policy arena. These not only included IT industry supported groups like the CIS and the Society for Knowledge Commons, but also the legal advocacy network Software Freedom Law Center (SFLC) which worked globally on issues of copyright and privacy and had been at the forefront for advocating FOSS as a solution to the issues in India's media system.²³ So even as *Hindutva* forces tried hard to create a polarising discourse and co-opt powerful interests, new ideas and discursive institutions provided an alternative, one that was not controlled by a single party or held captive by industry interests alone.

Once in Parliament, their ideas worked as institutions in their own right, and impacted technology policy by proposing solutions for the media system in ways that went far beyond the digital capitalism envisioned by the *Hindutva* leadership. Initiating the discussion in the Parliament, officials from IT ministry, spelled out the fundamental difficulty of autonomy in an internet-enabled media system.

They stated how the Indian citizens faced the growing problem of ‘malicious content’ online and highlighted the difficulty of autonomy in a rapidly evolving new media system. ‘How do we contact the owner of information? How do we identify that this is the person who has uploaded the information?’ they asked in their submissions.²⁴

In response, representations from SFLC, SKC and the CIS brought forward a socially-contextual reading of ongoing technological change, and proposed technology solutions that related the problem of autonomy given the affordances and the logic of new media. Moreover, by providing a prognostic framework, they also made common cause with a wider cross-section of media intermediaries, particularly the small digital media units which they argued were being penalised under the laws that would end up benefitting only a few. One of the representatives argued that ‘Only (large) companies of the size of Google and Yahoo may be able to do it (find content online and remove it)’ and hence called for abolishing of any requirement that would put the onus of gatekeeping on small digital publishers.²⁵

Unlike the satellite networking and broadcasting era debates, when cultural populism against ‘foreign’ media was often used by political leadership to undermine a progressive community media and technology policy, FOSS groups and allied activists were able to put forward a framework that engaged more thoroughly with politics and political economy of India’s emerging media system. Their ability to coordinate benefitted from the fact that that sections within the Congress party led UPA government began to recognise themes of privacy as a fundamental right in India, a trend that again contrasted with communicative strategy the party had adopted in the satellite era when cultural nationalist arguments often shut down calls for reforms.²⁶

This was partly a result of contingency, particularly the fact that the domestic debates came in light of Snowden’s 2013 revelations,²⁷ which became public around the same time. In response, activists and internet evangelists called for more use of ‘community-based infrastructure such as Open Street Maps and DuckDuckGo’, which the Director of Center for Internet and Society argued represented the most effective way to escape mass surveillance and a better way to ‘stay anonymous.’²⁸ These contrasting realities, both in India and internationally, helped new ideas find policy footing within the Parliament, and strengthened the coordinating role of independent technology activism to reach out to political groups as well as stakeholders in India’s emerging media system.

In its final report, the Parliamentary review committee, helmed by a CPI (M) MP, came down clearly on their side, calling the existing rules under the IT Act as ‘arbitrary’ and asking the UPA government to engage more seriously with issues of technology. By 2014, when the BJP returned to power at the centre, technology policy had given shape to a new politics of media system which had taken deep

roots both within the legislature and in the practices of online journalism. Combined with grassroots activism by groups like the Free Software Movement of India, ICT policy framed the problems of media autonomy in terms of the citizens' right to a free press.

Conclusion

This paper provides a theoretical framework to understand ongoing contestations around new media in India. By tracing the roots of current debates around online social media and intermediary liability to the historical weakness in ICT policy framework, it is able to explain why ongoing contentions are likely to continue until the underlying ideational conflict is resolved. Looking ahead, in order to substantiate these arguments, we need to conduct more formal analysis of the relative strengths of the competing alliances around questions of intermediary liability as well as analyse the ability of *Hindutva* formations to take control of new media related interests in the domestic as well as international arena.

Based on the analysis so far, we also need to caution against taking the shift in policy as being permanent. It is not. For reformers the challenge is two-fold; technologists have largely focussed on themes of autonomy within a technology-centric framework of anonymity and now they will need to address the growing menace of online hate speech, sometimes involving anonymous *Hindutva* 'troll' mobs (Chaturvedi 2016). In turn, political parties will also need to evolve more structural linkages with themes of privacy and online anonymity and reconfigure the rise of digital media and journalism in their own campaigns for social and economic justice.

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Notes

¹ Demands for repealing sections of the Telegraph Act were left unaddressed in the final report on the Press Laws Enquiry Committee. The two members belonging to A-INEC submitted their dissent notes and refused to sign on the report. See (Ganga

Nath) Committee 1947-48: Report. Delhi, 1948, British Library, India Officer Records: IOR/V/26/960/2

² Press Laws Enquiry (Ganganath) Committee 1947-48: Report. Delhi, 1948, British Library, India Officer Records: IOR/V/26/960/2

³ Quote here is from the IV annual conference, from the President S. Brelvi, editor of the English language Bombay Chronicle who was a close ally of Gandhi's non-cooperation movement. 'Govt. Restrictions On Indian Press: Editors' Plea for Relaxation in The Times of India, 30 January 1945

⁴ Nehru addressed or participated in almost all session until independence. The final attendance was in fifth annual session of A-INEC which was addressed by Nehru. See "Danger of Big Press Combines: Pundit Nehru's Warning" in The Times of India, 18 February 1946

⁵ For a first-hand account, see Iyengar, A. S. (2001). Role of Press and Indian Freedom Struggle: All Through the Gandhian Era. New Delhi, A.P.H. Publishing Corporation.

⁶ Austin G., Working a Democratic Constitution: The Indian Experience, New Delhi: OUP, 1999 p. 42. Patel is quoted as telling an editor that "We are interested in newspapers which will support us wholeheartedly. To say you will support us when we are right is meaningless. For why should anyone oppose us then?"

⁷ For an insider's account of the way international technology and media policy debate also progressed over the decades of 1960s-1990s, see Nodenstreng, Kaarle (2010). Speech available online: http://www.uta.fi/cmt/en/contact/staff/kaarlenordenstreng/publications/nordenstreng_becker.pdf (Accessed November 2015)

⁸ 'Prime Minister's Statement in Lok Sabha on AIR-VOA Agreement', Question Hour, Lok Sabha archives, 14 August 1963

⁹ Besides Girilal Jain, most prominent editors, including Khushwant Singh supported the Emergency. Singh suggested the reason was that "Not one other editor was willing to risk his job". "Why I supported the Emergency: Khushwant Singh", Outlook, July 2000

¹⁰ For a record of his tenure, I conducted an in-depth interview with senior journalists, including veteran editor BG Verghese in Delhi. Interview conducted by researcher, in December 2013, New Delhi

¹¹ For instance, allegations were made against the removal of Doordarshan employees on their cultural and religious affiliations in the aftermath of post-Emergency changes. Rajya Sabha Question Hour, 12 May 1978

¹² Interview with Mr. B. G. Verghese, a member of the NWICO round table. Conducted by the author in April 2014, New Delhi

¹³ Interview conducted by researcher, in December 2013, New Delhi

¹⁴ Plenum: Report on Organisation. (Comment from Party supremo Prakash Karat in a speech made at the annual conference of CPI(M), 2008.)

¹⁵ Excerpts from the P. C. Joshi Report in Chowla, N. L. Joshi Report: "India's Personality" On TV in The Times of India, 28 August 1985

¹⁶ The description here is based on field interviews conducted in Bangalore with members of FOSS technology groups, in January 2014. More details of activist networks and legal advocacy see <https://www.youtube.com/watch?v=PeO70Z4WrOA> (Accessed December 2016)

¹⁷ The tagline for the India-GII list read: “This list has existed since 1995, tracking India’s progress from one of the most expensive, monopolistic telecom markets to one of the most competitive.” Details available on its online archive: <https://lists.cpsr.org/lists/info/india-gii> (Accessed March 2015)

¹⁸ A detailed account of the accusations faced by Tehelka is available in Trehan, M. (2009)

¹⁹ In 2004, the police arrested the Indian CEO of the US-based website although his firm had been bought over by online commerce site e-Bay a while time ago. A first-hand account of the events as they unfolded in April 2004 is available in Balakrishnan, A.(2012) *The Wave Rider*, Pan Macmillan India, New Delhi

²⁰ CIS advocacy emphasized ‘anonymity’ as ‘a necessary pre-condition for democratic and open governance, free media, protection of whistle-blowers and artistic freedom.’ “We are anonymous, we are legion”, Sunil Abraham in *The Hindu*, 9 April 2011

²¹ Comment from a blog written by the main IT advisor to the BJP’s national leadership. See “IT Sovereignty in India – The Data Centre Dimension”, 11 April 2014 <https://vinitgoenka.wordpress.com/2014/04/11/it-sovereignty-in-india-the-data-centre-dimension/> (accessed September 2016)

²² <https://www.change.org/p/mps-of-india-support-the-annulment-motion-to-protect-internet-freedom-stopitrules> (accessed December 2015).

²³ Set up in 2011 SFLC brought together a whole range of activist groups under the umbrella of legal FOSS activism. See <https://sflc.in/about-us/board-members>

²⁴ Report on the IT (Intermediaries Guidelines) Rules, 2011, prepared by the Committee on Subordinate Legislation (2012-2013), XV Lok Sabha, March 2013

²⁵ Comments made by the FOSS advocacy groups Society for Knowledge Commons. See item numbered 64 of the Report on the IT (Intermediaries Guidelines) Rules, 2011, prepared by the Committee on Subordinate Legislation (2012-2013) XV Lok Sabha, March 2013

²⁶ Ibid.

²⁷ The revelations were published in the mainstream press in June 2013; see “The NSA Filed Decoded”, *The Guardian*. Accessible here: <https://www.theguardian.com/us-news/the-nsa-files> (accessed September 2016)

²⁸ Director of CIS, Sunil Abraham quoted in “Cyber experts suggest using open source software to protect privacy” in *The Times of India*, 23 June 2013

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