Disrupted
Internet and the new politics of media and communication policy in India

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Disrupted: Internet and the new politics of media and communications policy in India

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Abstract

This thesis focuses on the ideas, politics and activism surrounding the rise of the internet in India's media system. In particular it considers the debates around media and communications policy to explore how the rise of online networks and technologies have changed the policy on related issue areas concerning the question of self-regulation in the press and safeguards from surveillance online. The thesis traces the change and continuity in these two related policy areas and analyses it in the context of rising tide of *Hindutva* politics as well as ongoing changes brought about by the internet and related digital technologies. By analysing politics of media policy since the rise of the internet, the thesis shows that there has been a shift from the dominance of *Hindutva* and its cultural nationalist ideology towards greater inclusion of citizens' rights and recognition of privacy online.

By moving the analysis beyond media system theories that tend to focus on varieties of digital print capitalisms, this thesis aims to contribute to, and draws from, the wider literature on policy change. It considers politics in its fullest sense, which includes understanding the role of ideas that emerge in the course of rapid technological change. The thesis first considers the historical context for media and communications policy and maps a status quo that existed before the internet began to transform India's media system. Using a discursive institutionalist approach (Schmidt 2008, 2010; Beland 2009), it examines the persistence of the colonial era institutions as well as the weakness in the 'coordinating discourse' of self-regulation until the 1990s. Similarly, in the context of policies concerning telegraphy and telecommunications more broadly, it analyses the interplay between ideas, interests and technology in the past and how policy changed since the pre-internet era when concerns relating to surveillance in communications policy were marginalised largely due to *Hindutva* politics of cultural nationalism.

Besides showing the change towards a new politics in the legislative arena, the thesis underscores the rise of ideational contestations beyond. Particularly in the discourse and institutions of the press which have seen a revival of debates around citizens' rights and self-regulation. Taken together, the shift in media and communications policy also shows the crucial role of ideas associated with technology related public activism. The thesis however underscores the persistence of the *Hindutva* ideas and its communicative strategy that seeks to overturn the gains made in the recent years. This has implications for both the communication rights movement and the nature of India's democracy at large. On the one hand the resulting conflict has brought technological change within the framework of ideational contestations making the internet related disruptions less revolutionary than is often argued. While at the same time, technological change has enabled technologists and allied new media activists who had traditionally ignored media policy, and been excluded from it, to bring their ideas into the political and policy mainstream.

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I dedicate this thesis to all citizens of my country, particularly those students pursuing research in Indian university and to their brave struggles for a more democratic society. I hope that we can keep the faith in ourselves even in the face of deep uncertainties that we face today. *Amen!*

Declaration of Authorship

I, Aasim Khan, hereby declare that this dissertation thesis is my own work.

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List of Acronyms

A-INEC	All-India Newspaper Editors' Conference
ABP	Ananda Bazaar Patrika
BJP	Bharatiya Janata Party
BJD	Biju Janata Dal
CCAOI	Cyber Cafe Association of India
CCG	Center for Communications Governance, National Law University, Delhi
CCITT	Consultative Committee for International Telephony and Telegraphy
CERT (In)	Computer Emergency Response Team of India
CIRP	Committee on Internet Related Policy
CIS	Centre for Internet and Society
CMS	Centralised Monitoring System
COAI	Cellular Operators Association of India
CPI (M)	Communist Party of India (Marxist)
CRAC	Cyber Regulations Advisory Committee
DI	Discursive Institutionalism
MEITY	Ministry of Electronics and Information Technology
DoE	Department of Electronics
DoP&T	Department of Post and Telegraph
DoT	Department of Telecommunications (Ministry of Communications)
ERNET	Educational and Research Network
FICCI	Federation of Indian Chambers of Commerce and Industry
FOSS	Free and Open Source Software
GII	Global Information Infrastructure
IBI	Intergovernmental Bureau for Informatics
ICT	Information and Communications Technology
IFWJ	Indian Federation of Working Journalists
INC	Indian National Congress
ISPAI	Internet Service Providers Association of India
ITRs	International Telecommunications Regulations
ITU	International Telecommunications Union

MI&B	Ministry of Information and Broadcasting
NAM	Non-Aligned Movement
NBA	News Broadcasters Association
NBSA	News Broadcasting Standards Authority
NDA	National Democratic Alliance
NIEO	New International Economic Order
NRI	Non-Resident Indian
NWICO	New World Information and Communications Order
PSP	Praja Socialist Party
PUCL	People's Union for Civil Liberties
RIM	Research in Motion (Makers of 'Blackberry' services)
RSS	Rashtriya Swayamsevak Sangh
SFLC	Software Freedom Law Center
STPI	Software Technology Parks of India
TRAI	Telecom Regulatory Authority of India
UPA	United Progressive Alliance
VoIP	Voice over Internet Protocol
WCIT	World Conference on Information Technology

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Chapter 1

Introduction

The internet and online networks expand the reach of people to publish, share and search for information, and communicate with one another as individual bloggers or on social media. Alongside this, there is also an increase in the state's ability to monitor flows of information, while private corporations use sophisticated means to filter online communication for collecting consumer data. With the growth of these trends, media policies including those concerning online communications need reformulation. This thesis considers the case of India's media system to explore the change and continuity in policy since the emergence of the internet in the country. It also explores the role that technological activism plays in shaping the policy debates and relates it to the politics of nationalism and ideological contestations that animate India's democracy.

India is an important case to study the role of ideas and technology in media policy. Even as its media system has paced ahead in terms of the internet adoption rates as well as affordability of online social networking and instant messaging services, policy debates new media and online communication are taking a turn towards greater recognition of citizens' rights than had been the case in the past. The change in media policy is evident across a range of issues, ranging from policy efforts to strengthen the framework for self-regulation by the press to the more specific problems relating to surveillance of communication and privacy rights of citizens online. In this thesis, I explore the nature and cause of this change as well as map the continuities that have persisted, including the role of cultural nationalism and the way it interacts with technological changes in driving a shift in the policy agenda.

Rather than see policy as a 'balance of power' between the state and industry at any moment in history (van Cuilenburg and McQuail 2003), I consider media and communications policies within a wider political context and place the rise of the internet and digital technologies firmly within India's democratic context. At one level, this approach complements the expanding literature on the free speech jurisprudence and socio-legal aspects of privacy in contemporary India (Raghavan 2007, Chandrachud 2017, Burra 2007, Nair 2013, Acharya 2015). However, at another level, rather than see the objectives of media policy as limited to either the question of law or market-based regulation, I would like to move the focus on the interplay of ideological forces, institutional politics and public activism that shapes policy at the level of media system as a whole.

Media and communications policy: Beyond varieties of print capitalism

In the context of international and global media and communications policy, Mansell and Raboy (2011) have similarly argued to focus on how new 'technologies are articulated in the policy sphere, where political matters and both the international and unintentional design of these technologies have ramifications for how we encounter the media and how we communicate' (ibid: p. 3). However, in this thesis I would take a more comparative media policy approach drawn from a broad comparative politics and public policy perspective to explore how new media and online communications policies are being formulated in India and the way in which technological change interacts with politics to enable change in its media system.

Historical studies of the press have long dissected media systems in various political context and proposed normative models or 'theories of the press' (Siebert et al 1963) that emphasised such a comparative perspective of understanding of media policy as a barometer for ideological, social and political forces at play in different societies. More recently Hallin and

Mancini (2004) have argued that 'the press always takes on the form and coloration of the social and political structures within which it operates' (ibid: p.2). This thesis similarly aims to understand the political, ideological and social dynamics that underpins India's emerging media system with a focus on policies that mediate technological transformations brought about by the rise of the internet and what are sometimes referred to as new media's affordances (Jenkins 2006).

Moving the analytical focus from technology to policy does not simply mean a turn towards political economy or material determinism. Here I also depart from the analytical approach that has reduced the study of politics of media policy to a varieties of print capitalism studies. In Western European context for instance, Hallin and Mancini (ibid) identify four key dimensions to describe the variations within the continental media systems. These dimensions that relate the social and political aspects with the organisational and institutional dimensions of the press, include the structure of media markets, political influence on media institutions and standards and professional ethics of the press and finally the role of the state. Based on a combination of these dimensions, they also identify three 'models', the Anglo-American liberal system which lacks formal institutions of self-regulation, the 'partisan polarised' model and the 'corporatist' model with the last two showing a high-degree of 'political parallelism' in the media system.

However, media scholarship and comparative politics have drawn attention to the limitation of any such 'modelling' which limits the role of politics simply to 'parallelism' and drawn attention to the various social and ideological processes underneath. This necessitates paying closer attention to the ideational and political context for policymaking; or as is said in comparative politics; 'taking ideas *and* discourse seriously' (Schmidt 2010). This has already been proposed in the context of media systems in Asia, particularly in China where ideological state domination persists alongside booming media markets (Zhao 2011). Most importantly,

the characterisation of media system and in turn media policy simply in terms of a model or variety of media capitalism needs to be reviewed in light of the emerging criticism within the field of policy economy and public policy.

My approach to go beyond a varieties of print capitalism framework draws from a broader 'institutionalist' tradition in political economy which similarly grouped Western countries as per the different 'varieties of capitalism' (Hall 1993). Following Habermas (1997), Schmidt (2002, 2008, 2010) has since expanded and developed a 'fourth institutionalism' to reconsider politics and public policy in its full meaning, and examined the role of ideas and public deliberations that often exceed the framework of market capitalism. In her work on social policy, Vivien Schmidt (2002, 2008, 2010) has consistently underscored the value of deliberative dimensions of politics and argued that ideas, ideologies and worldviews can act like 'discursive institutions' capable of policy change in a particular context.

This turn towards 'discursive institutionalism' (DI) and to ideas more broadly, can help us address concerns regarding the limits of existing models to understand the media policies not just in Asia, but also to think more clearly about the role of ideas and ideological forces at a time of rapid social, cultural and technological change. It is through such a conceptualisation of media policy as part of political and ideational domain that I begin my analysis of media system in India as it evolves with the growth of the internet. Besides being the worlds 'largest democracy', India is a good case to consider since it has a rapidly globalising economy with a complex history of ideological politics and post-colonial realities (Kohli 2006, Mukherji 2014). Media policy in India similarly offers a vantage to move the analysis beyond the framework of varieties of print and digital capitalism in the country, a framework that has remained dominant in multifarious works on India's media system by Robin Jeffrey (2006, 2009, 2013) among many others.

Instead, we can now reconsider how ideas, besides interests and 'rational legal' state interventions are central to shaping the course of India's media system. To be sure, themes of capitalism remain central in this study of emergence of technology but it is placed within a deeper political context, particularly in terms of the changes in India's nationalist politics over the decades. Media policy is used as a lens to understand how competing nationalist worldviews as well as new ideas both from within the party political domain and beyond interact with changing economic and technological landscape in ways that do not fit squarely with any of the model of regulation or variety of print capitalism.

After all, since the decades since 1990s when the internet emerged, India has turned more towards a market-based approach in its economy including in broadcast media (Mehta 2015), print and newspapers (Sonwalkar 2002, Parthasarathi 2014), telecommunications (Mukherjee 2014, Singh 1999) and more broadly in the domain of political communications at large. However, it's not enough to simply 'model' India's media system in the narrow context of the liberalising economy, which as scholars have argued remains an exercise fraught with empirical and conceptual difficulties (Chakravartty and Roy 2013). Instead we need to understand the change and continuities in terms of *systemic* level shift in policy to explore the various ways in which nationalist ideologies, party political contestations and ideational discourse of technology interact with, and shape, the field of media capitalism and online communications.

Since the rise of the internet and its applications have come to impact a range of media, and other domains of public policy, my focus in this thesis is primarily on the press and political communication more generally which has been argued to be the domain of digital media policy most directly related to democratic politics (Schroeder 2017). Following Freedman (2008), I argue media policy and press related policies should necessarily include public and political

activism aimed at 'fostering (and protection) of media forms that are seen to play a central role in the exercise of democracy and the involvement of citizens in formal political processes.' (ibid: p.13). I disaggregate my analysis of media policy in two related issue areas, one concerning the role of the press as a media for communication leading to democratic participation, and another in it's the more specific context of keeping a check on state power.

I then intend to analyse how politics influences media and communications policy and focus on the technological change heralded by the rise of the internet to consider this politics. Hence rather than consider particular forms of news media or perhaps the more popular cultural forms in India, I focus on the press as a whole, which include print, electronic, new digital media as well as formal as well as informal media practices including new forms of journalism and information sharing that have flourished with the rise of the internet over the years. In both instances, given India's constitutional framework, while problems print and broadcast news media have already been considered in a number of studies (Thomas 2010, Jeffrey 2009, Udupa 2012, Parthasarathi 2014), I extend the analysis both in terms of including newer forms of media as well as in terms of including telecommunications that has largely left out in the analysis of India's media system.

The latter brings with it the more specific problem of mass surveillance and ability of the citizens to practice their autonomy in political communication online. This domain may not seem like the central aspect of the 'media system' *per se*, but recent scholarship on media systems has started to consider it as such (Mansell and Raboy 2011, Schroeder 2017). Even in India, ever since the rise of modern telecommunications in the late 19th Century, as this thesis also shows, communications policy and surveillance have been central problems of media policy and politics. Rather than analyse these debates and policy issues simply in terms of market-based regulation of telecom sector and online intermediaries, I seek to explain policy

change in terms of the changing relationship between politics and policies aimed at establishing safeguards for citizens' communication online. The aim is to provide an analytical narrative that adds to the media system scholarship which has generally overlooked themes of state surveillance so far.

Moreover, I seek to explain change in the framework of policy not only in terms of the changing political economy of digital capitalism in India, but also in the context of *Hindutva* ideologies which have historically used mass communication largely in the context of cultural nationalism and communal politics against religious and cultural minorities in India (Rajagopal 2001, Jaffrelot 1999, Banaji 2018.) In considering both these set of inter-related policy areas, the thesis first provides the historical context and I shall discus the theoretical framework for analysing media and communications policy in more detail in later part of this chapter.

But before that I shall discuss some more concrete examples which showcase the nature of change that is currently underway and which underscore my concern with politics and ideational basis for policy. These echo the criticism of media system approach particularly in their inability to address the world historical realities that influence the press and political communication beyond the West (Chakravartty and Roy 2013; Zhao, 1998, 2012). However, I also seek to problematize theories that see nationalism as an uncontested ideal, a super structure attached to the base of print capitalism and broaden the analysis to consider how politics mediates the development of press as well. Both the level of everyday engagement as well as through institutions and policy which in turn become crucial site for negotiating cultural citizenship in contemporary India (Konig 2016).

Internet and India's media: A system in flux

As defined earlier, a *systemic* view of policy change would encompass not only specific question of technological change but also the political realities which include ideas and

ideological forces active in India's democracy. Early scholarship on the arrival of the internet in India, largely limited their scope to specific questions of online access and telecommunications regulation (Franda 2002, Wolcott and Goodman 2003, Hughes et al 2001). While these studies mapped the 'diffusion' of the internet mostly in the context of liberalisation telecommunications services in the 1990s we can now extend the analysis to the domain of media and communications policy. Surprisingly, few scholars of India's media system have combined their analysis of mass media politics with the rise of the internet and the myriad ways in politics of new media policy influences the media system as a whole.

Moreover, their concern with infrastructure and economic development often results in confounding characterisations of India being a case of an 'elephant that cannot dance' (Wolcott and Goodman 2003) or as a country capable of 'leapfrogging' directly into the era of digital communications (Singh 1999). This limitation of digital capitalism and political economy of internet access reflects a more general tendency in comparative internet policy literature that maintains its analytical focus primarily on its expansion of the physical network and its 'liberation' potential rather than public policy as such (Diamond 2012). Discursive institutionalism helps us go beyond the varieties of digital capitalism and lets us reconsider the basic framework of media policy and the full political context in terms of ideas and ideological contestations at a time of technological and social change.

The lens of media policy provides is also useful to historically contextualise claims about the impact of the internet, and problematise the simplistic formulations about how technological change and it's the internet's affordances could rejuveniate the discourse and practice of democracy. Besides, a systemic analysis of politics will address the role of ideas in 'consensus' building as well as themes of power, which Pickard (2007) defines in terms of ideological forces aligned with coporate media interests in media policy. In his study of mass media in

post-War United States, he argues policy 'consenus' as a result of an ideological battle which he argues led to a 'post war settlement' which gave rise to a conservative media system.

In combining debates around print media with the framework of mass media regulation, Pickard also revises the academic notion that media policy in the US was settled in the 1930s with the emergence of a super regulator, the Federal Communication Commission (FCC) at the time. This thesis similarly seeks to reopen the historiography of India's media policy, and revise the scholarship that has largely drawn its lines in the decade of the 1990s as a cut-off point (Athique 2012; Parthasarathi 2014; Mehta 2006, 2015; Narayan 2014; Jeffrey 2009). In taking a historical approach, this thesis aims to demonstrate how policy process has been mediated by ideational struggles although unlike the American context, where Pickard focusses on 'corporate libertarianism' which marginalised the grassroots ideas (Pickard 2007), I am equally interested in the role of nationalist ideologies which mark a defining cleavage in contemporary Indian politics.

Hence, the cut-off in the timeline 'since the emergence of the internet' referred earlier in the thesis is to simply underscore that the current media system in India is in flux. My analysis does not exclude the changes in market structures of the press as well as globalisation and process of digitalisation which have occurred worldwide. The fact is that in spite of these changes, the rise of the internet might just have remained a moment of continuity rather than change as far as policymaking is concerned. It is only when we consider the wider political and historical context that we can begin to analyse the disruptive nature of technology in shaping the media system.

To be sure, the 1990s is also not an entirely misplaced cut-off point since it was only in 1995, following its economic liberalisation policies and the announcement of the New Telecom

Policy, that the Government of India symbolically launched commercial licensing of internet services on 15th August, the day of national independence. In terms of physical expansion of the online networks however the decade remains somewhat less relevant. For instance, in terms of the points of presence (PoPs) which indicate ease of internet access in a geographical location, the network grew rapidly only at the end of the 1990s, increasing from less than 50 cities in 1996 to more than 450 at the end of the decade. Similarly, the expansion of mobile telephony also picked up mostly in the following decade, the number of users who could access this network has also increased several times.

If, at the end of the 1990s, fewer than 1 in 100 Indians had access to a computer, and hence access was limited to less than 100,000 users across the country, then by the end of the 2010 more than 100 million mobile phone connections helped link citizens in India with internet-enabled mobile services. The following Table again indicates the relevance of the last decade for it was really the decade of the 2000s which drove access and expansion of internet which still remains (until 2010) far less in India than is case around the world:

Table 1: Internet and ICT indicators in India in 2010 [1]

Region	Population	Internet access (% of the total population)	Growth in 2000-2010 (%)
World	6,845,609,960	28.7	444.8
Asia	3,834,792,852	21.5	621
India	1,173,108,018	6.9	1,520

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[1] Source: Human Development Report (2011) "Sustainability and Equity: A Better Future for All." Published for the United Nations Development Programme. Internet data from Internet World Stats.

In spite of such rapidity of growth, indicated in the over 1000% rise in a single decade, current literature on media policy has largely focussed on the processes of economic liberalisation with the decade of 1990s used as a convenient cut-off point for analyses. This also ignores the persistent inequalities and disparities that exist not just in media and online communications but in society as a whole (Kohli 2006). Similar discrepancies exist in the context of new media, where absolute number of users of new media and social media sites and blogging platforms (including Twitter) have grown exponentially in urban cities, but the digitalisation process which is an important aspect of new media system has played out in a more complex fashion as far as access to the press and news online are concerned. [2]

Besides mapping the spread of digitalisation and indexing the persistence of coercive censorship restricting 'Internet freedom'[3], the real challenge is to tease out the changes and continuity in terms of media policies that aim to safeguard the rights of the journalists or the ability of citizens to hold the state to account and participate more meaningfully in the mediated public sphere. This would require us to consider the role of party politics, nationalist ideologies as well as wider social and deliberative dimensions that are key in framing the issue areas identified earlier in this chapter. At the moment, if we pause and consider debates in India since 2010, we can see that the system is in flux.

To give a few examples, we need only look at the debate on liabilities and laws aimed at online intermediaries which are often held responsible for the distribution of hateful content online. Consider for instance the case in 2012, when the Congress party led United Progressive Alliance (UPA) tried to reconstitute the framework to address the problem of extreme content

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[2] https://www.opensocietyfoundations.org/reports/mapping-digital-media-india (Accessed June 2018)

[3] See "India Only 'Partly Free' When it Comes to Internet Freedom', in The Wire, 15 November 2015,

being shared online particularly by *Hindutva* forces in the country. Over the decade since is passage and in particular since 2004 when the UPA came to power in Delhi, the political leadership of the Congress often sought to restrict such content, sometimes by banning media websites, but gradually changed its approach from censorship to deliberations. However, what was remarkable about the debates was that the policy shift did not come at the behest of party political debates alone but with through an ideational discourse involving activists and technologists and host of online bloggers who had often been excluded from the policy arena in the past.

In contrast to the *Hindutva* parties which tried to frame the question of restricting hate speech as an 'attack on free speech,'[4] a more progressive discourse of media policy argued that such bans were technologically unfeasible and instead drew attention to the need for reconstituting the policy framework in line with the potential of the internet to give voice to marginalised and minorities online. This discourse eventually gained an upper hand and won substantial policy concessions, not just in legal terms and repeal of the notorious Section 66(A) of the IT Act by the courts in India, but in terms of reorienting the media system as whole. With the support of several leading regional and Left front parties, particularly the CPI (M) that led the debates in the Parliament, their discourse eventually pushed an alternative approach to regulating online intermediaries and framed the problems of self-regulation in terms of citizens' rights that remained marginal in the context of mass media policy.

In fact, just a few years earlier, in 2008, the National Broadcasting Association (NBA), representing over 50 private news broadcasters, had signed a formal 'code of conduct' through

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[4] Modi, N. "As a common man, I join the protest against crackdown on freedom of speech! Have changed my DP. 'Sabko Sanmati De Bhagwan.' #GOIBlocks" Twitter, 24 August, 2012 https://twitter.com/narendramodi/status/238913468344958976?lang=en (accessed December 2017)

negotiations that barely touched upon problems of liability and followed a time tested formula which saw the Ministry of Information and Broadcasting frame problems in nationalist terms rather than address the problems of communal politics.[5] But rather than bring about similar consensus in the context of new media, the debates around intermediary liability moved along a different track and witnessed active participation of Left-wing political groups demanding greater oversight of private sector. The change was evident in the Congress party's approach to the internet which had initially ignored these ideas but gradually expanded the debate to include activists as their government sought to move policy from 'deadlock to dialogue'.[6]

Importantly, questions of online anonymity and intermediary liabilities also rejuvinated engagement of informal and the more institutionalised fora like the Press Council of India which had lost their relevance in the increasingly polarised debates in the previous era. Eventually, it was through these discursive institutions that policy change was sustained even after the Hindu nationalist parties returned to power in Delhi in 2014. Soon after it was elected, the Bharatiya Janata Party (BJP) led government ignored the demands made in the course of a parliamentary review of the intermediary liability laws, and instead sought to frame the problems of media policy through a public discourse of 'anti-nationalism'[7] that deems any dissent against the government as a reason for censorship.

Such moves however have not only by opposition parties but also independent media activists and journalists who have ensured that the government could not override the policy trends that

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[5] Code of Conduct, NBA, 2008

[6] Comments from the multi-stakeholder negotiations on "Legitimate Restrictions on Freedom of Online Speech: Creating Balanced Approach: From Deadlock to Dialogue", held at the Federation of Indian Chambers for Commerce and Industry, 4 September 2012

[7] The 'anti-national' idea is closely tied to the *Hindutva* effort to limit the freedom of the press and dissent since 2014. In a report by Freedom of the Press Index, it has been cited as a primary reason for India's rank falling down to 138 out of 140 countries listed in the rankings. See "RSF targets PM Narendra Modi for India's lower press freedom ranking" In National Herald, April 26, 2018

had emerged over the last two decades. No new intermediary liability law has been introduced, even as laws like the Information Technology Act has been read down by the Supreme Court in contrast to consistent demands for such legislation by the BJP's leadership which first introduced the law in 2000.[8] This scenario had been repeated several times over the last two decades, including in the context of online social networking where the menace of mass surveillance online again mobilised those who have sought a more progressive policy agenda.

As in the case of media policy and debate around framework for intermediary liability, a new set of ideas and IT related activism has driven a change in policies concerning the rights of citizens online. In particular, free and open source software (FOSS) technologists and allied policy activists, lawyers and host of Left parties came together to defend policy changes including in the context of allowing higher limits of encryption of online messages and autonomy in social networking that was never debated previously. This flux in the system was evident in the case of a proposed National Encryption Policy that became another instance when technology activism brought political groups opposed to the *Hindutva* forces together, leading to a reversal of the proposed policy.

In 2014, when the BJP led government introduced a new policy draft it was forced to withdraw it within hours of its public release. As per the draft, the government sought to bring the operations of online messaging services including private communications under the purview of the over a century old legal regime constituted under the Indian Telegraph Act of 1885. Moreover, unlike the Congress leadership which had opened a debate on the question of autonomy online, the BJP government tried to push a change in encryption policy following minimal consultations. Moreover, its leadership did not even try to frame the question in terms

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[8] "Section 66(A) Scrapped: On Online Freedom, Government's Balancing Act" NDTV, 24 March 2015

that addressed concerns of citizens' privacy but reached out directly to private license holders to enforce a policy consensus on the subject. But their efforts were again met by a similar alliance of technologists, new media activists and political groups which resisted the attempt to legitimise the arguments both within the Parliament and beyond.

These are only a few instances, but considered together they showcase the precarious nature of policy change as well as persistent political intervention by the *Hindutva* forces in taking back the media system. These debates, and references to the role of an 'enlightened public', as the BJP leadership mockingly called those opposing the encryption policy,[9] however reflect the strength of a new discourse of citizens' rights that has constrained a powerful ideological force and instead sustained a progressive shift in media and online communications policy. It remains imperative to expose the institutional dynamics that drive these debates, and also explore the role played by technologists and new media activists who worked beyond the party political context but nonetheless succeeded in influencing policy outcomes.

These examples and the discussion in the earlier sections shows that ideas, including cultural nationalist assertions are central to media policy even as technological change is transforming the system in India. Hence before we set out the key questions which will be analysed and answered in this thesis, we need to further clarify the theoretical framework that can help us in analysing the role of ideas in terms relevant to understand policy change. A clear framework would also be important for us to reopen the existing accounts of the history of media policy in India and reconsider the way in which political dimensions influenced media and communications policy in the past, particularly in the course of major technological changes in the era prior to the internet.

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[9] "Modi Government Withdraws Draft Encryption Policy: IT Minister", The Huffington Post, September 22, 2015

Ideas and policy change: A discursive institutional framework

Without understanding the historical interplay among political ideas and ideologies, growth of IT-sector interests in media sector and technological activism that preceded the emergence of the internet, it is not possible to understand the nature of *change* that is underway today. As mentioned earlier, this would require us to move beyond the somewhat static approach followed in media system literature and consider the ideas and discourses go take us beyond the framework of print and media capitalism. This would require us to not only consider the role of political parties but also survey the wider political landscape including ideas concerning rise of new technology and the role that technologists play in shaping policy.

Parthasarthi (2014) takes such a view when he argues that 'beyond the legislative abilities to debate and institutionalise particular frames, it is equally important to understand the wider social and political context which led to the alternative framing of media regulation'. However, in characterising politics of newsprint and press related policies, he confines his analysis to a contest 'between dominant strands of liberal and progressive standpoints' in India's democracy. These concepts hardly reflect the realities of Indian politics, certainly not until the 1990s which saw a rapid growth of more and more communal and outright fascist ideologies and politics of identity.

In particular, it leaves out the role of *Hindutva* which has had a long history of mediatised propaganda and policy activism around themes of media freedom and autonomy (Ninan 2007; Rajagopal 2001). Even in recent years *Hindutva* forces have sought to make inroads into the new media system, and its supporters have actively used online networks, often engaging in activism against weaker and minority communities, including women, Dalits and Muslims who do not fit into their framework of India as a Hindu nation (Udupa 2017; Chaturvedi 2016). Hence, any analysis of new media and communications policy first needs to reconsider the

scenario that existed in the previous era and evidence for the role of *Hindutva* nationalism in setting the agenda.

The crucial move that this thesis makes, as already indicated, is to recognise technological change as a moment of disruption of media system but relate it to institutional and political context in which policies are made. As already discussed earlier, theories that move beyond the varieties of media capitalism can help us unpack some of the complexities of emerging media systems, particularly in understanding political drivers of policy change, including around the problem of online surveillance. As mentioned earlier, in making this move to consider the politics of media policy, I draw from, and seek to contribute to, the literature on the role of ideas not just in terms of print capitalism, but also in terms of understanding how technological change provides opportunities to create moments of 'crisis' as well as in altering the very understanding of the problem that needs state intervention in the first place.

The focus on the role of ideological forces and role of the state in setting policy priorities is central to the literature on ideas and their role in policy change (Schmidt 2002, 2008; Beland 2009, Beland and Cox 2010). In particular, I consider approaches such as Vivien Schmidt's discursive institutional (DI) theories which are quite relevant not only to understand *why* certain ideas are able to drive policy, but also *when* and *how* particular ideologies could enable policy change. This allows for a better understanding of policy change especially in the context of the dominance of chauvinist nationalist ideology of Hindu nationalism, as well as acknowledging that this is only of the many ideas or 'nationalism' (Habib 2017) that exist in India's democracy.

In considering DI theories besides the 'media systems' approach, I expand the scope of comparative media policy to go beyond efforts to build new typologies that capture the distinctiveness of India's national media system (Chakravartty and Roy 2013) and instead

focus on the interplay between ideas, deliberation as well as popular discourses which Schmidt (2008) argues have the ability either work as institutions that help shape the response of the state and set priorities for public policy. These theories remain attentive to the 'logic of communication' which Schmidt (2008) argues is equally important aspect alongside the 'coordinating' role ideas in policy processes.

It is precisely in seeking to expand the scope of policy studies to include ideatioal factors, that the DI theories have moved the focus to the role of ideas as culture to institutions and placed mass mediated politics and deliberative processes at the heart of policymaking. More crucially, DI approaches suggest that the state can be an important arbiter and far more entrenched in shaping the nature of capitalism that rationalist perspective would suggest. Current scholarship on India has already underscored the limitations of the 'liberal' conceptualisation of media system (Roy 2007, Udupa 2011), but so far the question of media policy which operates over and above everyday politics have not been considered especially in light of the technological changes unfolding in its media system as a whole.

A DI perspective will also help us consider the debate about new media and autonomy, at a time when the internet and related developments in Free and Open Source Software (FOSS) technologies offer new online tools to protect and safeguard the source in new media reporting. Similarly, in the case of online communications, hackers and amateur technologists in India have made the availability of encrpytion tools widely available, leading to renewed interest in the self-regulation of the press and initiated debates around protection of whistle-blowers against powerful interests in politics and business. A discursive institutional perspective would focus particularly only the ideas shared by technologists in their public advocacy, and understand these in relation to the the broader 'coordinating discourse' (Schmidt 2008) that not

only connects them to party political institutions but also interests associated with the IT sector in India's digital media economy.

Key questions

Based on the discussion so far, let us now list the key questions that we can begin to answer in the subsequent chapters:

1. To what extent have media policies, particularly those concerning autonomy and self regulation, changed since the emergence of the internet and related new media practices?

2. In addition, how do these changes relate to ongoing debates about privacy online and more broadly to the politics of communications policy?

3. How have Hindu nationalist parties and organisations sought to use the internet to set a political agenda, and which forces have resisted their claims in media policy domain?

4. What role have technologists played in the field of media and communications policy and how do their practice and ideas mediate the politics of policy reform?

To focus on the role of technologists, and not just technology, in understanding the ongoing transformations in India's media system is a salient contribution of this thesis. Through a DI perspective, we can also begin to conceptualise how their ideas and explore how technology practices associated with the free and open source software-based development of the internet (Lessig 1999, Kelty 2008) interact with India's media policy sphere. In placing ideas and technology activism alongside ideological forces and public activism at the heart of my study, I also seek to reposition India's media policy debates in a comprative media policy framework while at the same time remaning attentive to the local moorings of policy agenda. Before I present the main argument about the role of the internet related activism, I will briefly chalk

out the my analysis, using a discursive institutional approach, of the policy consensus that had existed in the previous era.

Historical context: Politics, nationalism and media policy

Until now, history of media policy in India has largely been limited to the study of specific media forms or particular moments of public contentions, rather than presented as a consistent domain of public policy in its own right. More recently, policy analysis in the context of the internet and new media, scholarship has also largely retained the framework to consider particular episodes of online censorship (Rajkhowa 2015) or specific issues in infrastructure and access related policies (Prasad 2018). My analysis of policy change in this thesis begins to move in this direction, by first reconceptualising historical aspects of the politics of media policy in brief and then revisiting the debates in the two issues areas which have witnessed gradual change in recent years.

By moving the analytical lens to policy debates and public activism, I begin by exploring the continuities in policy debates across contemporary history rather than focus on particular moments of public and political contention. Using a case study approach, I also seek to explore the extent to which technological change, and technologists, were imbricated in media politics until the time when the internet began to enter in India's media policy debates. Hence, rather rely on argument that sees emergence of television (and by that logic the internet) as an instance of *fait accompli* (Farmer 2000), I place technological change within a political framework that relates it to the rise of ideological forces that swept across India's political landscape since independence.

Using a DI approach, if we revisit the existing theses on print capitalism in India, we need to reconsider the weakness in the deliberative processes that shaped media policy in independent

India. Focussing on public deliberations and policy activism by journalists, rather than simply on legal jurisprudence, in this thesis I relate this weakness in the framework for media self-regulation to the reticence of India's founding fathers and their anxieties about communal violence. This reticence and *lack* of public engagement and debate, I argue, was partly a result of historical contingencies, but over the decades, as this thesis shows it also gave way to an institutionalised 'communicative discourse' (Schmidt 2008) where claims about limiting 'foreign' influence rather than concerns about ownership and diversity framed the policy agenda.

The thesis is attentive to the role of conservative Congress leaders like VB Patel, who took over as the first Information and Broadcasting Minister, and relied on pomp and personality that reflected the weakness in 'background ideational abilities' which are considered essential for coordinating policy (Schmidt 2008). However, gradually this reliance on personality led to a more polarising discourses of cultural nationalism and rhetorical assertions rather than policy deliberation became the key feature of mass media politics. The rise of cultural and communal nationalisms, especially at the time of the Emergency in the mid-1970s, helped the *Hindutva* politics which further weakened a progressive media agenda.

In the 1960s, it was Indira Gandhi, who also served as the Minister for Information and Broadcasting (I&B) before succeeding Nehru as the leader of Congress and Prime Minister in the mid-1960s, who further weakened the deliberative context for media policy. However, it was *Hindutva* ideologues such as LK Advani who succeeded her as the first ever non-Congress I&B minister, who institutionalised the weak discourse of self-regulation in terms of what I have identified as the 'cultural nationalism' of *Hindutva* with its focus on coercive acculturation defined strictly in line with their ideological agenda to convert the diverse and plural Indian society into an ethno-nationalist entity (Jaffrelot 1997).

Using a discursive institutionalist lens, the thesis shows how in the absence of new ideas and public debates around emerging issues in media policy, secular politics and progressive activism around diversity could not survive this assault because it had not built stronger 'coordinating discourse' (Schmidt 2008) of self-regulation. In tracing the debates that occurred in the context of technological changes brought about by the rise of satellite technologies since the 1980s, I show how rather than being *debated* seriously within and beyond the Parliament, the political leadership both of the Congress and much more so under the *Hindutva* paradigm, led to the issues in media policy being framed in exclusivist terms. I argue that the *lack* in coordination eventually paved the way to the dominance of Hindu nationalism which became more and more assertive in the post-Emergency era.

Besides the lack of coordination, it was the ascendance of *Hindutva* ideology and its assertions about cultural nationalism that also led to a complete annihilation of the independent deliberative institutions of the press. These not only included formal statutory bodies such as the Press Council of India but also the various public service broadcasting institutions and press commissions that were aimed at strengthening self-regulation of the press. In tracing the shift from a weak coordinating discourse and the rise of *Hindutva* ideology, I also revise the existing theses about the extent of policy change heralded by the rise of private interests first in the context of print media and later in the context of globalisation of electronic news media and public broadcasting in the 1990s.

In the latter case, even as corporate interests took advantage of the opening of the media markets especially in the context of news broadcasting, following the decision by the Supreme Court, in 1995 in favour of such a shift in economic policy (Parthasarathi 2014, Mehta 2006), it was the discourse of cultural nationalism that paved the way for a consensus as far as policies relating to self-regulation were concerned. In the context of broadcast regulation and public

service broadcasting, Hindu right-wing not only succeeded in overwhelming its rivals in aligning private interests with their ideological framework but again exploited the absence of a strong discourse of self-regulation to their political advantage.

Their ideological discourse made mass media and news television in particular both an active site for communal politics as well as a means to undercut demands for policy reforms. Before I show how the weakness in coordination changed with the arrival of the internet, I also retrace the similar trajectory in communications policy which reflected, and was reinforced by, the politics of media policy. Rather than begin with the constitutional context, I begin by considering the evolution of discursive institutions, including the declining role of deliberations and public activism by amateur technologists, from pre-independence era when demands for reforms if not rights first emerged in the course of technological and political changes at the time.

However, as in the case of press policy, surveillance and evasion of accountability continued even after the end of course of the colonial rule in mid-20th century. In in the post-independence era, while the Congress leadership relied on a weak coordinating discourse that did not directly address the problems of surveillance or encourage a wider debate on the misuse of discretionary powers available to the state's licensing agencies under the regime associated with the Indian Telegraph Act of 1885. In their bid to subdue the communal menace, the secular nationalist leadership under Prime Minister Nehru largely evaded a public debate as was demanded, among others, by the independent media and amateur technologists.

Gradually, as the thesis shows, the absence of public deliberations meant that even popularly elected governments failed to be more accountable as the founding fathers had promised, and hoped. Crucially, problems of surveillance persisted while the licensing agencies failed to make

an impact on policy agenda even as debates around emerging technologies came to be framed in terms of culture and nationalism. The shift first became evident with the ascendance of Prime Minister Indira Gandhi and her efforts to gain control of the emerging satellite networking-based broadcasting in the 1970s. Her rhetorical assertions, which emphasised the threats from 'eyes in the skies', became a means to sustain the consensus not just in the domestic arena but also in international debates around the use of emerging technologies.

As the anti-colonial and secular moment gave way to the Emergency, India's communications policy stance, particularly in the context of transnational data flows, also took a turn away from progressive policy activism. In revisiting key moments of history of communications policy, the thesis critically examines India's participation in the international fora especially in the context of technological changes in the 1970s. For instance, in the context of satellite networking and concomitant demands for a 'New World Information Order', I show how ideas that drifted towards soft cultural nationalism provided a kind of institutionalised 'communicative discourse' (Schmidt 2008) which marginalised efforts to coordinate a stronger policy response and instead create a mass hysteria-based framework in India's domestic context.

Moreover, policy came to be dominated by powerful personalities attached to the state and this again helped the *Hindutva* movement which gained momentum in the subsequent decades. This trend appeared even more pronounced at moments of heightened polarisation, around themes of telecom liberalisation when new avenues for co-opting private sector interests opened in the 1980s. I discuss the role of technological changes not in isolation but in relation to the rise of political movements and personalities like Prime Minister Indira Gandhi and *Hindutva* leaders like LK Advani, and the subsequent politics of cultural nationalism which dominated debates around surveillance until the 1990s. Often described as 'the worst kept secret' of India's

democracy, unlawful surveillance served the interests of *Hindutva* political leadership well, although it wasn't something that really bothered any other party until the emergence of the internet.[10]

With every new statutory and legislative move to safeguard autonomy and privacy, quite the opposite was achieved, both in the context of mass media policy as well as in communications more generally. All through my analysis, I pay close attention to more informal press unions as well as amateur technology activism which ended up as handmaidens of the political elites in Delhi. Here I also try to relate the communicative aspects of policy relevant in the context of mass media regulation to the more coordinating aspects relevant in the context of telecommunications policy. While in the context of media policy, cultural nationalism provided the pretext for restricting reforms, in the more specific context of communications and the problem of surveillance, their ideas provided a cover to avoid any substantial policy debate on the subject.

Underscoring the *lack* of debate and deliberative institutions as a backdrop for communications policy, we see how in the course of the Emergency, which came at the same time as the satellite networking related debates in the international arena, simply served to institutionalise the trends that had already taken a long time in the making. In particular, the thesis maps closely the development of a broad ideational consensus among party political elites and provides evidence to show how even at the time of rapid globalisation, and later with the emergence of mobile-based cellular technologies, communications policy framework changed very little.

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[10] For an account of how telephone tapping became a widely ridiculed topic, see "Telephone Tapping Abuses Privacy" Sardesai, Rajdeep in <u>The Times of India</u>, 23 April 1990

The role of Hindu nationalism in technical contexts around setting international regulations (ITRs) might seem like a case of a 'primeval soup' described by policy theorists who consider policy change to be a case of contingencies (Kingdon 1997). To an extent the marginalisation of concerns regarding surveillance in the previous era can be put into such a model, but with our focus on discursive institutions we are able to see *how* and *when* ideological framing of technological change converged with the politics of mass media and failed to bring any change in policy agenda. In particular, the thesis considers the period of satellite networking and accompanying changes in IT related developments in telecommunications in the 1980s to show this trend. It shows how in the absence of new ideas even technological change cannot stop the gradual marginalisation of amateur developers and with them demands for surveillance related policy reforms.

Drawing attention to the impact of weak institutions and reliance on colonial era relics such as the Ministry of Information and Broadcasting, I explain why *Hindutva* ideas came to dominate policy so easily in the 1980s. If in the case of mass media, *Hindutva* television 'split' the publics (Rajagopal 2001), it was also attentive and active in the policy context. Its leadership took every opportunity to exploit the weakness within the discourse of privacy and self-regulation. In each instance, rather than push for open debate, they brought in polarising themes of 'foreign' influence and cultural nationalism. All the while the IT professionals, like amateur radio signallers in a previous era, remained on the margins or dealt with the system through self-censorship which was also the case with the press in general. Until the internet emerged, many scientists and IT experts chose to 'work quietly' rather than challenge the status quo. [11]

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[11] The phrase is taken from a computer scientist and pioneer of Internet based networking in India who argues that until the 1990s they often had to "work quietly" in order to avoid scrutiny by the telecommunications licensing agencies. See "The story of how the Internet came to India: An insider's account" in Netch@kra: 15 Years of Internet in India, Retrospectives and Roadmaps, ed. Madanmohan Rao and Osama Manzar, Digital Empowerment Foundation, New Delhi, 2011

Information technology, alternative ideas and activism

If we analyse various policies and programmes relating to the media and communications both before and after the emergence of new ICTs and the internet in particular, as this thesis does, it becomes evident that themes of rights have risen to pre-eminence largely in the context of online communications and new media policy. But where did these ideas emerge and how did they gain an entry into the policy discourse is a question that is at the heart of the argument that will be presented later. Ideas associated with FOSS activism is well recognised in the literature on new media (Kelty 2008, Postil 2014) including in the context of international media policy (Hintz 2009), but not much is known about their role in shaping India's media policy debates.

In theoretical terms, the rise of the internet also provides an opportunity to open the black box of India's 'civil society' and disentangle the role of technology related activism in media policy. The lack of conceptual and practical relevance of the notion of 'civil society' as a category in defining the role of non-state actors is a running theme political theory, including in the context of contemporary India (Khilnani 1997, Corbridge and Hariss 2000). In liberal framework civil society is often described as a domain of 'dense network of groups, communities, networks, and ties that stand between the individual and the modern state' (Kenny 2007). But such definitions obscure more than what they might reveal about the role of non-state actors since it often overlooks the presence of political ideologies and discourses that diverge from the idealised notion of civil society as largely non-state non-governmental NGOs standing against the state (Gellner 1996).

In recent years, such conceptions of civil society have been used frequently in analysing international relations and foreign policy change (Finnermore 2004, Keck and Sikkink 1998) as well as in the context of media and international communications policy debates (Raboy 2012, Hamelink 2014). However, critical media scholarship focussing on the non-Western

context has questioned the breathless optimism about the role of 'civil society' as a means to democratising Internet governance of the information society at large. Chakravartty (2007) for instance, argues that idealised notions of civil society represent an idea of 'governance without politics' that would only exacerbate inequalities in communications and further marginalise the significance of subaltern groups to participate in policy.

It is with these critical caveats that I avoid using the concept of civil society in the thesis but nonetheless recognise the role of non-state and discursive actors who have changed policy debates from the outside (Pohle, 2016; Pohle, Hösl, & Kniep, 2016). Instead, I would use the less idealised term 'technologist' which is also closer to the context of technological change, and useful in terms of developing and understanding of the role of coders, amateurs web developers and a whole range of indviduals and groups asscoaited with Free and Open Source (FOSS) movement in India that has been identified as a distinct strand 'communication rights' related social movement in India (Thomas 2014). Rather than elaborate on the substance of FOSS, which I do in a later chapter, here it is important to underscore the role they played in enabling a 'coordinating discourse' which led to policy change.

For this, I again turn to the Habermasian emphasis on 'communicative action' and Schmidt's (2008) conceptualisation of ideational politics to consider the role FOSS related activism in policy change. By going beyond the 'text', as Schmidt has argued, I consider technology activism to be constitutive of a distinct worldview, one that is able to negotiate the structural organisation or the 'coordinating dicourse' of policy as well as capable of welding together political ideas, groups and interests together through a more communicative component. For Schmidt (ibid) 'discourse is not just ideas or "text" (what is said) but also context (where, when, how, and why it was said).' It is in this sense that I see technologists and their activism and 'social imaginary' (Kelty 2008) as part of policy making.

In analysing their role, I use Schmidt's understanding of policy ideas that 'not only to structure (what is said, or where and how)' but also determine 'who said what to whom' (2008: p. 305). Hence, besides the text of their public activism, I only consider FOSS related activism since it has worked 'in tandem with the Internet as both a technical and a social form' worldwide (Kelty 2008: ix). However, since this thesis aims to explore the politics of media policy within a deeper historical context, I also consider the emergence of FOSS groups and their ideas on a wider political canvas. Here, I try to read back similar practices as identified by Kelty (2008) in the context of FOSS based activism within a deeper history of media technology related activism that involves practice of coding and encryption in the pre-internet era.

My use of the word 'technologists' includes not only the 'geeks' developing cutting edge computer-based software (ibid), but also includes technology practitioners who possess relevant 'tacit knowledge' (Polanyi 1966, Kelty 2008), *vis a vis* technological change in any given era. I will discuss the detail of these ideas in the course of my analysis, but it should suffice to say rather than consider technologists as a 'civil society' group or simply an 'epistemic community' (Hass 1992), I consider technological activism in its full sense. From an institutional perspective, amateur experimentation is never simply a case of technical tinkering but could be consider part of political activism that can have impact on policy too.

In politicising the history of technology and placing it within a broader political canvas of policy, as this thesis does in the context of the internet and media system in India, I also bring into the discussion the role of technology amateurs and professionals who preceded the current phase of ICT based changes. I will try and bring to light the role in 'ham' radio signallers and in a later era, computer scientists and professionals involved in the 'long revolution' in India's IT sector including those developing BBS networks much before the advent of web-based networks emerged in the 1990s. Through such a connected history, this thesis contextualises

the understanding of the role of India's indigenous technologists and related public activism as an important facet of its media and communications system until the rise of the internet.

Moreover, by providing the historical antecedents to the current crop of IT activism, the thesis makes it clear that the internet is not exceptional, nor is it necessary that FOSS related technology activism would always create radical policy shift. Instead, it places the internet in a line of series of advances in ICTs and wider technological changes that have occurred continuously across contemporary Indian history. The focus will be primarily on radio, wireless signalling and satellite networking which heralded major changes in media in the 20th Century. The internet is just another crucial milestone, but this time it has had had major implications for the debates around media policy and even surveillance of transnational data transfer and social networking online.

In recounting this history, alongside the politics of media policy, the thesis shows that technological change in the past wasn't as revolutionary as some account would have us believe. Instead, we need to consider the role of ideas and in particular the cultural nationalist politics, particularly with the emergence of virulent *Hindutva* ideas since the 1970s which framed the rise of satellite networking technologies in narrow and exclusivist terms. Instead of enabling progressive change, the rise of the IT sector in the 1980s also did not really have any effect on communications policy. However, it did fuel a wave of disgruntled IT workers, including amateur FOSS technologists whose values and spirit of experimentation eventually came alive in the internet era as they became more organised and politically active over the years. In recounting the discursive aspect of technology activism, this thesis also maps the evolution of an alternative set of ideas which played a crucial role in moving policy debates away from convenient frames of culture and nationalism.

Main Argument: Change with continuity

The main argument in the thesis, which is based on a broad comparison between policy debates before and after the internet, is that while there has been a change in policy, the role of technology, and of technologists, is crucial in shaping the ideational context in which policy problems are debated and prioritised over time. To be sure, as and when an opportunity arises, even *Hindutva* groups too, much like their political antagonists, try to co-opt technologists and use new media to advance their own ideology. This has been the case since the late 1990s, when the *Hindutva* parties were power in Delhi and institutionalise a discourse that again framed issues of self-regulation and problems of surveillance in a narrow framework of technological change, one that left out all questions of citizens' rights online if not directly suppress them.

The key argument of this thesis is that notwithstanding such efforts, policies did change overtime, and efforts of *Hindutva* affiliated politics have not succeeded largely due to ideas which had emerged first in the domain of technology activism and gradually revived a deliberative discourse of privacy and autonomy in the Parliament and beyond. In developing the argument that media policy in India moved from a weak discourse of self-regulation and privacy towards a greater recognition of citizens' rights, I focus primarily on the period since the passage of the IT Act of 2000 which was aimed primarily for regulating online content and transactions, but was actively used by the BJP leadership to frame concerns of censorship and surveillance into a narrow framework of technology that suited their own ideological agenda. I analyse the development of policy until the most recent instances since 2014, when the BJP government returned to power, and show that over the years there has a shift which has implications for policies ranging from liability of private intermediaries to the question of citizens' privacy and rights in online communication.

By expanding the analysis to include the wider public activism and discursive strategies around the IT Act, I show that when the law was first enacted, it represented a Hindu right agenda that wanted to take advantage of online networks without disturbing the consensus around media policy at large. This included overlooking the social convergence between the new and old media that went beyond the simply digitalisation of mass media. Without overtly emphasising the 'foreign' character of the internet and new media technologies, the BJP also used the networks to reach out to Indian expatriates or non-resident Indians (NRIs) which had substantial influence in in in terms of funding their movement at the time. Instead, it treated new media forms simply in terms of technologically enhanced forms of mass media, and tried address questions of self-regulation and autonomy through the IT Act. The thesis shows that how this involved actively weakening policy discourse in the name of 'ushering India into the 21st Century' rather than debate wider social implications of emerging technologies.[12]

This approach was by no means out of step with *Hindutva's* core ideology; but what is important is to note that such attempts to evade and even limit policy debates go hand in hand with the *Hindutva* discourse online (Lal 2003), and their cultural nationalist agenda that combines a personality driven 'Hi-tech populism' with consistent use of new technology for projecting India as a Hindu ethno-nationalist entity (Jaffrelot 2015). Similarly, in the context of communications policy too, the BJP leadership has avoided a more substantial debate on the problem of surveillance online. In the late 1990s, even is backed a framework of ending India's 'digital divide', and pushed for narrow policies concerning the expansion of online networks, its leadership did not disturb the consensus around the Indian Telegraph Act and the

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[12] Introducing the bill in the Parliament, the BJP Minister for IT at the time tried to evade a debate and asked the opposition to desist from turning the 'question of information technology' into an issue of 'prestige or ego'. See IT Bill 1999, Lok Sabha, 12 May 1999. Lok Sabha archives.

discretionary powers it had served to the political elites in the course of licensing of pre-internet era telecommunications.

Moreover, as this thesis explains, both in the context new media policy and debates regarding surveillance, they also ignored the presence of alternative ideas and technology activism that gradually pulled the political momentum away from their claims and drove a change in policy over time. In contrast to the *Hindutva* leadership's narrow focus on technology and ushering India into 21st Century, a new alliance of FOSS technologists and new media activists drew closer to the Left parties and brought the rise of the internet into the domain of progressive social activism. Their ideas challenged the claims of the BJP leadership by using the internet both as a site for demonstrating the weakness in the discourse of the IT Act as well as by using online networks a means to expand the debate around new media self-regulation and problems of surveillance by relating it to themes in digital economy and questions of intellectual property in the emerging media system.

In theoretical terms, the thesis shows that FOSS technology related activism eventually gave rise to an alternative 'coordinating discourse' (Schmidt 2008) of privacy and self-regulation which provided a means to resist the dominance of cultural nationalism. And in the interregnum when the BJP lost power in Delhi, new ideas that had once been restricted beyond the policy domain, now moved into the heart of the politics of media and communications policy. The process when the Congress returned to power in 2004, and tried to reform the policy framework in light of the growing use of online networks for spreading hateful communal content. But given their own lack of ideas and a clear understanding of social implications of technological change, they only took ad hoc and halting measures to address the problems of media policy.

Tracing the development of policy change in relation to problem of regulating extreme online content to the debate on setting new liabilities for online intermediaries under the IT Act, the thesis shows the making of a 'crisis' around the early 2010s. In particular, it analyses how policy focus on technology led to the ascendance of new ideas which took advantage of the falling rates of compliance by many of the leading intermediaries, including Google and Facebook, and framed the problems of self-regulation in alternative terms. The thesis also maps the entry of their ideas and related FOSS related technology activism in the legislative review of the IT Act, and their gradual institutionalisation through a discourse backed by progressive political groups in the Parliament and by journalists and social movements beyond it.

On the problem of intermediary liability, it traces the convergence among FOSS groups and Left parties as they drew a new 'social imaginary (Kelty 2008) of free software based media production which also served as a discourse to regulate private digital platforms and large online intermediaries in India. The DI perspective allows us to see how technologists and their public deliberations and activism were vital in providing a valuable alternative 'coordination discourse' that also appealed to the Congress leadership. This doesn't mean that *Hindutva* leadership wasn't active here, and some prominent FOSS and IT related interests especially from Bangalore also switched to Hindutva side in the course of these negotiations. However, even the latter eventually recalibrated their approach to the internet, alternative ideas from joined a party-political alliance backed to break the policy consensus which had long framed debates around mass media and news broadcasting policy in the past.

In analysing media policy change since the emergence of the internet, the thesis also compares the debates around intermediaries online with the more consensus-based negotiations that followed around news broadcasting over the last two decades. Again, keeping the focus on the interplay between ideas and political institutions, it shows how the weak policy framework for

regulating private news channels didn't address even the basic problems the mass media channels faced a series of crises linked to the spread of digital technologies since the early 2000s (Mazzarella 2010, Saeed 2013). Taking the specific debate around Broadcast Regulatory Authority bill which was brought forward under the UPA's watch, it shows that none of the major nationalist parties pushed for a broader debate let alone question the decline in public service aspect of news channels. Instead, in continuing from the discourse of the past, the political elites negotiated with large private sector interests and settled on a 'code of conduct' that marked more continuity than change, with authorities at MI&B targeting Al Jazeera and other 'foreign' media.

Using a DI perspective, again helps us see how the ideational process did not expand to take into account new media outlets with the Ministry of Information and Broadcasting rather than a more deliberative for a taking charge of negotiations. In contrast, the coordinating discourse of information technology in the context of internet-based new media intermediaries, the UPA government was forced to address crucial questions of ownership and IP rights soon after the Parliament enacted strict laws under the IT Act. This period, in the late 2000s until 2012 saw the government pass new guidelines including those aimed at curbing the menace of hateful content online. But unlike the negotiations in broadcasting related debates which involved mostly large private sector interests, in the case of online intermediaries, an ideational contest took centre-stage and brought FOSS technologists and social activists, as well as several Left affiliated political parties into the heart of policy deliberations.

As the thesis shows, FOSS technology related activism was crucial to the redrawing of political lines, with their ideas and practice of non-proprietary software rather than concerns limited to themes of cultural nationalism driving policy change. In analysing the nature and substance of this change, the thesis again underscores the role of FOSS technologists' as discursive agents

able to engage with parties like the Communist Party of India (Marxist) while also partnering with many of the leading IT and the internet-related media interests through fora like the Internet and Mobile Association of India (IAMAI). The internal diversity amongst them is explored in detail, but overall it is shown that at the level of media policy, the internet related activism was crucial in framing of an episode of 'crisis', around late 2012, which saw the UPA government more or less abandon the IT Act as a means to guide media policy.

In September 2012 for instance, after it failed to implement another ban on online hate content being spread on various new media, the UPA leadership began to negotiate with FOSS related technology groups. An analysis of the debates that followed shows how its leadership gradually also revised its stand on the question of privacy and online citizens' rights. By 2014, when the BJP returned to power, in spite of public posturing and insistence on the need for the IT Act like law to curb hate speech, the Congress leadership now backed a more progressive policy agenda that framed problems of self-regulation in terms of the rights of the press to more self-control rather than require them to submit to the kind of self-censorship that defined mass media institutions in the past.

Gradually, beginning with 2013, the change in policy was further institutionalised through a parliamentary review, as well as public deliberations around intermediary liability clause of the IT Act. All the while the office of Minister for I&B remained marginal to these debates. Unlike *Hindutva's* assertions about allowing 'free speech', these debates saw considerable participation of FOSS technologists and deliberations on the ideas of responsibilities of new media and also complimented a series of revisions in the legal framework through public litigation. In 2015, even as the BJP government opposed such a move, the Supreme Court repealed sections of the IT Act. These dynamics also played out, and were linked directly, with the changing politics of communications policy where the emergence of online social

networking again witnessed sharp ideational polarisation and revived a discourse of autonomy and right to privacy which upended the dominance of *Hindutva* as had been the case in the 1990s.

Beyond digital capitalism: *Hindutva* and the new politics of communication rights

To answer the question asked earlier, it is fair to say that India's political of media and communications policy goes beyond the framework of digital and print capitalism. The public contestations around communications range from technical issues of encryption to the more ideological interpretations of autonomy which had long been permitted surveillance of citizens' communication. In a remarkable shift, even in the international policy debates, India has since broken away from the past on the grounds that it needed to deliberate its policy more thoroughly at home. As highlighted earlier in the chapter, even after the *Hindutva* led NDA government came to power in 2014, efforts to restrict encryption through a national policy also failed, again indicating the strength of an ideational alliance which increasingly polarises policy deliberations around questions of privacy rather than themes of cultural nationalism.

As discussed earlier, cultural nationalist assertions were instrumental, through much of modern Indian history, in developing policies that marginalised question of citizens' rights. This was clearly evident in the debates about satellite networking when India emerged as an active ideologue for international regulation allowing individual states to monitor flow of information and data on the pretext of culture and national sovereignty. But a discursive institutional analysis of communications policy debates in the post-Snowden era shows that there has been a major policy shift, with technologists' discourse at the heart of the change. It is largely due to their activism that a new coordinating discourse has emerged and brought together a range of political groups and interests in the IT and digital telecommunications sector.

Their activism has not only polarised political parties on questions of autonomy and anonymity but polarised the wider deliberative arena on lines that put the focus firmly on the rights of the internet users online. Moreover, technologically inflected ideals of privacy and anonymity online have also revived discussions amongst journalist associations and institutions which had historically remained dormant and mutely witnessed the misuse of discretionary powers in the hands of the state. In particular, the thesis shows how UPA government's efforts to invite FOSS technologists rather than just rely on IT czars from the mainstream media and software export sector proved effective in policy change.

Tracing the policy shift from the early 2000s, I show how FOSS technological activism and allied ideas originated outside the policy sphere which was witnessing a change in light of the convergence between online VoIP services and conventional telecommunications at the time. Subsequently, when the UPA initially tried to address the problem in terms of 'automised' surveillance it allowed these ideas to move into the heart of the policy arena and create a new politics of communications policy. This analysis shows that FOSS activism again acted like an alternative 'coordinating discourse' (Schmidt 2008) that brought together a range of social, political and IT sector interests which went beyond the political economy of digital capitalism and upended the existing framework in communications policy.

Tracing the evolution of this shift towards a greater recognition of citizens' communication rights, I continue to develop the argument in the course of another crisis in 2008, which also had an international dimension. I demonstrate how alternative ideas gradually pushed out cultural nationalist themes and reframed policy in terms that subtly challenged the dominance of *Hindutva* ideology. But the thesis also shows that debates around policy are far from over, and the current media system in India reflects as much continuity as change as far as policies are concerned. Eventually, as the internet becomes part of more and more domains of the media

economy and information society more broadly, the role of FOSS activism will have to move beyond technology inflected ideals of anonymity and 'user rights' and expand to include more political concerns of media and economic justice.

As of now, they have upended efforts to push out older ideas that allowed cultural nationalist ideas to work in tandem with private interests associated with cellular mobile lobbies. But new ideas have not overturned the older consensus completely, as yet there has been little change either in constitutional context of communications governance or in terms of safeguarding the rights of the citizens through statutory reforms. Overall, at the systemic level, the internet-enabled disruptions have been less revolutionary than is often argued in the literature, and in the absence of an omnibus privacy legislation, media and communications debates remain prone to reversals both at the legislative level as well as in terms of specific programmes aimed at nurturing a more democratic media.

Since the 2014 elections, BJP's media policy and its notorious IT Cell, has failed to address the problem of hateful content online while framing policy problems in terms of India's 'data sovereignty' which its leaders define as 'a concept that information which has been converted and stored in binary digital form is subject to the laws of the country in which it is located.'[13] So far, until the writing of this thesis, the presence of alternative ideas and their alliance with the Left parties and support from sections of the Congress, have resisted a return to old policy framework. Another change that is evident is that the ideational divide has also deeply revived journalists' unions and institutions and renewed public deliberations on the role of statutory bodies like the Press Council of India.

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[13] 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)

If in the past these institutions had been abjectly ineffective in supporting structures of self-regulation or develop public service media institutions that could withstand abuse by *Hindutva* propaganda, there is a new debate around them. If in the past, 'news traders' in mass media were able to cut backroom deals rather than participate in debates on policy, in the more recent era after the Snowden leaks, as this thesis shows, question of privacy has divided media houses as much as individual journalists. From a DI perspective, this process is another sign that policy change is very much an act of public deliberations and the growing polarisation along themes of citizens' rights could lead to further marginalisation of coercive, colonil era institutions like the Ministry of I&B that domainted policy in the past.

Moreover, media and communications policy is now actively debated by progressive social movements whose involvement in mass media related debates in the past had been reduced to the courts and litigation in the 1990s. In the context of the Right to Information in India (RTI), Thomas (2011: p. 109) has argued, 'unlike the West and other parts of the world where the RTI is tied to freedom of expression and press freedom, the struggle in India has tied this right to the basic right to life and survival…marking a distinct and in fact radical departure from other struggles around information rights.' By 2015, when the analysis in the thesis concludes, the new politics of privacy and freedom of the press is taking a similar turn, with themes of citizen's rights and social justice becoming central to media and communications policy.

As yet, there is no law (unlike the RTI Act) that confirms the policy change or recognises a rights-based approach as the basis for policymaking. Unlike the case in Europe, where iterations of such rights, for instance right to be forgotten have been enshrined in law. Nonetheless, India's media system is pivoted on a new politics which pits progressive forces and FOSS technologists against *Hindutva* nationalists, one media house against another and investigative journalists online versus compliant mass media anchors on television. What is

however undeniable, as this thesis argues, is that ideas of privacy and rights of the citizens are now firmly embedded in the discourse of policy and it is on the basis of these ideas that any policy decision can be made or justified.

Overview and conclusion

Before I begin the analysis, in Chapter 2, I review the scholarly debates and themes in media and communications policy and consider how it relates to the public policy and political economy literature at large. In Part I, I review the existing theories of policy change and discuss the framework of discursive institutionalism and its relevance in media and communications policy in the course of technological change. I will also discuss literature on public and social policy that can help us contextualise the ways in which media policy is both a site for developing a coordinating discourse of politics as well as a means to expand the debate to include through creation of new forms of recursive publics (Kelty 2008) as well as broader 'split publics' (Rajagopal 2001). In Part II, I clarify some key concepts like *Hindutva* and progressive strands of 'nationalisms' as well as the relevance of Left aligned social and political movements in India which feature in the subsequent analysis.

In Chapter 3, I discuss the methodology for the thesis and the data collection and analytical strategies used to operationalise the theoretical framework developed in the literature review. Then in chapter 4 and 5, I discuss the key historical dimensions which led to the dominance of *Hindutva* and nationalist ideas in the context of press and media policy as well as politics of communications surveillance. In particular, I isolate the weakness in India's post-colonial politics and limited reforms than expand the debate around autonomy of the press. In Chapter 5, I extend the analysis further to discuss a similar weakness in telecommunications policy which led to a system which allowed routine misuse of surveillance while providing political elites discretionary powers to evade a public debate in the context of licensing of

communications. Together, these chapters provide a comprehensive account of the key historical aspects and the weakness in the discursive institutions that began to change in the post-internet era.

Chapter 6 and 7 take the analysis further and explore how the dominant framework gradually changed over time with the emergence of new forms of technology activism and their subsequent impact on the media system. Chapter 6 begins by analysing the politics of convergence between new and old media and shows how the *Hindutva* leadership were caught off guard as they tried to co-opt transnational communications within the ambit of their media strategy. As new media policy debates diverged from the framework that had restricted the debate around self-regulation in the previous era, new ideas from beyond party political arena gained entry in the policy agenda. I explain the shift based on the rise of an alternative alliance and their role in constructing a 'coordinating discourse' of self-regulation that related the technological change to demands for media policy reform.

In Chapter 7, I continue to expand this analysis and consider how changes in media policy relate to the politics and political economy of communications policy and how a similar ideational contest reframed the problem of surveillance. Showing the similarity and interlinkages between the two issues, I analyse the relevance of alternative ideas and the internet-related technology activism that strengthened the coordinating discourse to challenge the status quo that had existed until then. All through, I keep my focus on ideas and public activism, not just in the legislative arena but in the wider policy arena including the international debates around telecommunications regulaiton which became a crucial site for advancing the alternative discourse of policy.

Together, these four chapters map the rise and fall of a cultural nationalist status quo and highlights a dialectical relationship between the weakness in the coordinating capacity of the state and the persistence of ideas and discourse of Hindu nationalism. In particular, I pay close attention to the role of technologists as they engaged with the Left-aligned political parties and social movements and analyse their role in sustaining the ideational conflict within the institutions of the press. I conclude the thesis by underscoring the key argument again and discuss potential areas for further research. I discuss pathways for developing a more rigorous understanding of the ideational basis of media policy as well as exploring the role that technology can play in nurturing cultural and media citizenship in India.

Chapter 2

Literature review

Since this thesis explores the change in media and communications policy in India within its democratic context, including the dangers of communal and cultural nationalism, we need a theoretical framework that allows us to better conceptualise the role of ideas and their interplay with other factors. Moreover, since the ambition is to understand the ways in which policy change in recent years has come against the backdrop of rapid technological shift in the media system with the rise of the internet, it is also important to develop a framework that helps us relate changes in policy to ideas and discourses which often come from beyond institutional politics. In this review, I first explore the public policy literature to clarify such a theoretical framework and then discuss some of the key concepts like *Hindutva* and other strands of Indian politics, focussing on their relation to the 'communication rights' movement in the country.

As mentioned in the Introduction, my theoretical framework and analysis of media and communications policy goes beyond a conventional political economy of media policy or analyse the particular 'model' or variety of digital capitalism in India. Rather than see the media policy as a means through which 'the states and government and industry have sought mutual advantage by way of privileges, regulations and restrictions' (van Cuilenburg and McQuail 2003: 181), I situate my study within a more democratic media framework that focusses on the political and ideational context for the development of media and communications policy in India. In this review, I will begin by considering how such an approach is already well recognised in policy studies and consider how it also useful in understanding and analysing media and communications policy change in media politics beyond the context of a liberal media system.

In particular, I focus on theories of discursive and historical institutionalism (Schmidt 2002, 2008), since they not only take into account the role of ideas but could help us understand media and online communications policy as constituting a political domain beyond the rational legal approach followed in varieties of print capitalisms in Europe (Hallin and Mancini 2004.) Media policy could be seen both as part of the discursive and historical institutions which allow political parties and social movements to communicate with people as well as a site where ideational contestations play out in the public sphere. I also discuss the current literature on the role of the internet to show how scholarship on new media is already moving its attention to discursive and institutional aspects of policy. I end this section by discussing how India's contemporary history provides an important case for understanding the way ideological and technological forces have interacted since the emergence of the internet in its media system.

I conclude by discussing some of the key concepts that are as significant to media policy as they are to democratic governance in India today. I review the literature which has referred to the challenge of *Hindutva* and its 'cultural nationalism'. In particular, I highlight the mass mediated aspects of their ideological activism which must be considered more seriously in terms of its influence on media policy. Addressing this gap not only adds India's case to the literature on comparative studies of media and internet policy that has largely focussed on Anglo-American context, but also helps us recognise the role that *Hindutva* and ideologies of cultural nationalism can, and do, play in shaping the state's involvement in the context of self-regulation of the press and surveillance online.

Discursive and institutional approaches in policy studies

Before I discuss my theoretical approach to study media and communications policy change, I present a general overview of the literature in social sciences and policy studies that offers relevant ideas and framework for our purpose. Even in rationalist analytical tradition, the

problems with a 'balance of power' approach is quite well recognised as an inadequate model for explaining policy change. Given the complexities of contemporary democracies, even within studies that focus only on programmatic level policy change, efforts to model a 'comprehensive rationalist' framework of analysis has long been discarded in favour of a more political rationalist perspectives (Lindbolm 1959). More recently, attention has moved to recognising that policy consensus often emerges from ideational or 'paradigm' level shifts (Hall 1993), with institutionalist scholarship moving towards in depth analysis of the inter-relationship between material and 'rational' interests and historical institutions as well as *ideas* that can shape the very nature of policy 'problems' which in turn shapes policy formulation and intervention in the first place.

This has led policy scholars to argue that policy problems and priorities do not appear as objects to be acted upon by pre-determined interests but are *constructed* through an ideational logic which includes processes of inter-subjective meaning-making and mutually constitutive deliberative strategies. Within rational political economy tradition, it is argued that besides the 'logic of consequences', we need to consider the 'logic of appropriateness' (Olsen 1999) which helps groups and collective actors determine their course of action in relation to their peers and networks in which they are embedded. Similarly, constructivists emphasise the processes through which policy actors mutually and actively construct policy agenda. In the case international relations, for instance, Wendt (1992) argues that the international system depends on ideas and interpretations of sovereignty and 'what the states (actors) make of it.'

In terms of logic of explanation, institutionalist theories often rely on showing not just immediate causation but highlight the role of inter-subjective learning (Hall 1993), strategic intent (Kingdon 1997) as well as discourse and communication (Cobb and Elder 1971, Schmidt 2008, 2010). For the latter, ideas and communication mediate the process of policy at every

stage, from setting the public and political agenda to identifying particular cognitive frames to think about potential solutions at the time of policy implementation. In the words of Blyth (2002), speaking in the context of how economic policymakers respond to crisis, 'structures do not come with an instruction sheet…ideas make such an institutional resolution possible by providing the authoritative diagnosis as to what a crisis actually is and when a given situation actually constitutes a crisis. They diagnose 'what has gone wrong' and 'what is to be done' (ibid: 10).

Hence the purpose of any policy inquiry, discursive institutionalists would argue (Saurugger 2017: 899), is to 'uncover rather than to assume rationality of policy agents.' In this thesis, I work with the substantial corpus of discursive institutionalist theories (Schmidt 2002, 2008, 2010; Beland 2009; Beland and Cox 2010) which show us that we need not entirely reject the questions concerning coercive power of material interests while studying the role of ideas. In the context of media system and media policy, a 'discursive institutional' (DI) perspective is likely to focus as much on the presence of deliberative spaces and historical institutions as on the combination of various other factors associated with the political economy of the press and media system at large.

The concern with ideas is inherent, although not explicitly stated, in the theories of the press which rarely acknowledge the realities beyond the 'liberal' Anglo-American context. Hallin and Mancini (2004) for instance identify a 'democratic corporatist' model that identifies a neat division in politics mapping onto the divisions within the institutions of the media and the press. The resulting 'political parallelism' tempered by the presence of a 'rational legal authority' represented by the state, is shown to be the reason for a high degree of ethical and political sophistication within the field of journalism associated with media systems of north European countries. In contrast, they consider instances primarily from south of Europe where political

parallelism is compounded by an activist and interventionist state while institutions of press and political communications tend to reflect a general lack of professional ethic. The result is a 'polarised pluralist model' that is frequently marred by political populism and media concentration.

However since the aim is to categorise media systems into particular models or varieties of print and media capitalism, the focus in this literature tends to be on market regulation rather than ideas that can often times accommodate growth of commercial media within the framework of state dominated capitalism, as is the case in China (Zhao 2011). Furthermore, there is no explicit emphasis on the role of public policy, with the role of the state seen primarily in terms of a 'rational legal authority' rather than an active arbiter able to safeguard the rights of the citizens as well as promote a more diverse and culturally plural media system. Moreover, there is not enough emphasis on how a system might transition from one type to another in the course of technological and social change. The a static snapshots or models are helpful in understanding policy consensus but not good enough to explain a change in policy over time as is perhaps the case in many countries which are seeing significant public debate around themes of new media and online communications policy.

The focus on explaining policy change is central in institutionalist theories which in turn highlight a dynamic interplay between the various dimensions that are considered somewhat distinct in media systems theories. In political rationalist policy literature, change is often seen to be occurring when 'floating ideas' moving alongside policy 'streams' and a shift takes place when a 'window of opportunity' opens up at moments of crisis (Kingdon 1997). In contrast, discursive institutional approach takes ideas more seriously and the role of the state as a central feature of policy, and shows not only *which* discourse can constrain policy but also highlight more precisely *when* and *how* ideas influence the course of policy. The common theme in all

these approaches is to consider the role of contingencies and think about how 'politics finds its source not only in power but also in uncertainty' (Heclo 1979).

Here we could consider the approach developed by Schmidt (2002, 2008, 2010) who argues that besides rationalist focus on material power that assumes pre-defined 'interests', we also need to consider the role of ideas as institutions which reformulate relationships between key actors and constrains certain policy outcomes. Similar arguments are also present within studies of mass communication and its role in policy, with communication scholars arguing that any study of policy must include references to wider public opinion as well as the 'agenda-setting' role of the mass media. While it does not conceptualise media as a political institution, the press and its coverage of politics is seen to reshape the policy process, which includes an ability to ensure that a policy or a power struggles never occurs in the first place.

Cobb and Elder (1971) demonstrate that media influences can range from 'issue creation' to 'issue expansion' based on the attention being given to journalism practices of framing. The point to note is that communication scholarship as well as discursive institutional scholarship underscores the role of media as a site as well as a means to develop policy change. Following from a DI perspective, the very notion of 'issue creation' would mean thinking about the role of activists who construct a 'problem' and the role that their ideas play in bringing it into the public arena. Beland (2009) for instance, identifies three-levels at which any policy issue emerges as a focus on political and institutional agenda; at the first level, ideas help to construct the problems and issues that enter the policy agenda. At another level, ideas '*frame* the basic assumptions that influence the content of reform proposals' and finally, the way 'ideas and cognitive maps act as discursive tools that shape reform imperatives over time.'

The discussion so far shows why it's important to consider individual and collective agents as embedded within ideational structures, and in turn, these discourses are quite capable of setting the policy agenda. In this thesis, when I refer to media and communications policy 'issues areas' it is primarily in these terms, that is to say to that I consider politics of media policy to be constituted through ideational and political contestations that involves setting a framework which defines which problems need attention and which ones could be ignored. With this approach we can begin to consider how to relate the discussion on ideas and policy change to particular problems in a complex media system.

Ideas and policy change in media and communications

From such a perspective, the very act of defining or even recognising the problem of mass surveillance or reconstituting the framework for self-regulation to ensure more diversity of views *is* policymaking. Following the theories discussed so far, we can consider that neither 'privacy' nor 'autonomy' are self-evident objects but are often brought into media policy agenda through negotiations and ideational contestations around problems that could emanate from within or beyond the media system. Since my attempt is to extend this analysis beyond digital and media capitalism, I would review the literature that has tried to conceptualise changes in media policy in broader social, political and technological context both in India and in other parts of the world

Even in the context of Anglo-American media system, Freedman (2012:1) argues that policy is 'shaped by competing political interests that seek to inscribe their own values and objectives on the possibilities facilitated by a complex combination of technological, economic and social factors'. The reference to 'inscribing' values is similar to the way in which DI scholarship emphasises ideas and discursive institutions to be the primary basis for policy outcomes. For instance, seevral accounts of media policy change in Europe since the 1990s highlight the

significance of 'neo-liberalism' as a crucial ideological factor for policy change (Raboy 2002, Chakravartty and Sarikakis 2006). Similarly, while he doesn't work explicitly refer to an ideational framework, Pickard (2007; 2015) uses a Gramscian approach to analyse the role of 'policy trajectories, ideas and discourses' (ibid: 1) that go into shaping media and communications policy in the United States.

In fact, there is a good deal of overlap between the analytical framework being proposed here, and the more Marxist and Gramscian perspective adopted by these scholars in understanding the basis for policy making. Pickard (2007) is attentive to defining role of ideological contestations and the eventual triumph of 'corporate libertarian' ideas which he argues diverted the trajectory of mass media in the US towards a more commercial and profit driven system. These references also bring back the discursive institutional focus on ideas, which as Schmidt (2002) argues, following Weber (1946), can often act like 'switchmen in history' that change the course and political economy of policy in the long run. This thesis seeks to use these theoretical insights to think about the ongoing shift in media and communications policy in India.

In a was I want to reflect on the idea of 'switchmen' both metaphorically, as in the ability of ideas and discourse to change the course of media policy, and in a more literal and interesting sense which considers the role that technology and technologists (as 'switchmen' operating online networks) can play in changing the discourse which is the basis for policy debate. Before I consider the latetr aspect, I will like to underscore that as thesis on media and communication, I find it imperative to also consider the casual way in which discursive institutional conception of 'communicative discourse' as being completely disconnected from the 'coordinating' aspect, a binary drawn to highlight the difference between publicity from policy negotiations involving elites with money, resources and political power.

In drawing this division, Schmidt (2008) draws an important contrast between 'background ideational abilities' which are often required of policy elites from the more public facing 'foregrounding discursive capacities' which are deployed by political leaders when taking policy debates into the public arena. While using these insights from DI perspective, I also aim to explore how new media and communications policies can constitute both a site for developing the background capacity, but also act as a means for publicity used by political elites in India to reach mass media audiences. Often times, for instance in the case of ideologies of cultural nationalism, policies are what political leaders do behind the scene, while mass communication can serve as a means of mass distraction.

In this sense, this thesis attempts to show how media and communications policy in India is a domain of coordination among policy and media elites as well as a political arena where parties as well as social movements often focus their energies to build mass support and influence. In this sense, the role of autonomous media institutions as well as technologists become crucial intermediating actors who are often engaged in reconfiguring or 'disrupting' the policy discourse relying on technological changes. Before I discuss the precise conceptualisation of who could be counted as 'technologists', I will briefly summarise the existing literature that has tried to conceptualise the role of the internet and show the value of using a DI perspective in explore media politics in India.

Internet and new media politics: Towards a DI approach

The discussion so far shows how in the literature on public policy as well as in the more specific domain of media and communications policy, scholarly focus has turned towards ideational sources of power and policy change. In the context of new media and online communications studies, similar themes of ideational sources of policy are increasingly moving centerstage. At the international level, scholarship on Internet governance, a domain generally considered part

of geopolitics and 'great Internet powers' (Drezner 2004), has increasingly opened up to ideational and discourse analysis with scholarship showing the complex interplay between ideas, interests and discursive practices in shaping policy agenda (Padovani 2002, Pohle, 2016; Pohle, Hösl, & Kniep, 2016).

Another strand of 'global media policy' (GMP) literature has also recognised the legacy of powerful ideas from an earlier era of satellite networking that led to a similar debate about media policy and international laws (Hamelink 2014, O'Sichru 2004, Raboy and Padovani 2012). There has however not yet been a similar historical analysis of new media and communications policy in India, particularly in the context of changes brought about by the internet. While the GMP has underscored the significant legacy of the satellite era technological changes and debates media policy and communications, few scholars have recognised the country specific significance of these moments particularly in the context of India's domestic policy.

Scholars of global media politics (Raboy and Padovani 2002) and the internet related media policy (Epstien 2011, Pohle 2016) have also argued that the emergence of 'multi-stakeholder' is in itself a shift in policy and make it much more likely to be influenced by ideas than simply geopolitical forces. Epstein (2011), for instance, argues that international debates at the Internet Governance Forum (IGF) have been crucial in 'creating common ground for discussion of internet-related policy issues' and has analysed the discursive contests that emerge in such fora. As contestations re-emerge in the international arena, we need to reconsider how the interplay between historical legacies and technological change are shaping the emerging media system in India.

More crucially, we also need to explore how the role of ideas in new media and online communications related policy within India and consider it within the institutional context in which certain discourse of autonomy and privacy has emerged. This requires us to look beyond the 'text' of policy debates and consider the social and political context as well. Here we can also draw from studies of social movements which have highlighted the role of discursive practices and the role of framing which 'denotes an active, processual phenomenon that implies agency and contention at the level of reality construction' (Benford and Snow 2000). From our perspective, in the context of media and communications policies, framing strategies and discursive contexts are central to the ways in which non-state groups and technology related activists move into policy arena and coordinate with private interests as well as political parties in the legislative processes.

Similarly, the concept of 'crisis' construction is central in theories of framing since it involves defining the issue or issue creation (Bobb and Elder 1971) and is useful to thin about how politically weaker groups can take their ideas into the policy domain. Goffman (1974), who first used the concept of frames argued that these 'schemata of interpretation' enable individuals 'to locate, perceive, identify, and label' occurrences within their life space and the world at large (ibid: 21). More recently, it has been argued that *framing* represents an active discursive and communicative act (Hulst and Yanow 2014), and these ideas are again helpful in terms of understanding the role of ideas as well as media practices of technologists can play in shaping policy.

In the Indian context, role of discourse and framing in terms of 'network neutrality' has been considered central to policies concerning access to the internet. In analysing the debate in 2015 and its implications for telecom policies in India, Prasad (2018) analyses the framing strategies by activists to explain the politics behind the turn towards network neutrality. In comparing the

communicative strategies adopted by those arguing in favour of neutrality principle versus those against it, Prasad (2018) argues that the winning side ensured victory through a 'frame alignment processes' which required their ideas to match with those in the government, particularly the Hindu nationalists who wanted to utilise this opportunity to advance their ideal of a 'Hindu India, ascendant India (ibid.) This turn towards discourse and framing, as well as more broadly the inclusion of technologists and their 'social imaginaries' (Lessig 1999, Kelty 2008) could also be used to analyse the role of India's amateur and professional IT workers in media and communications more broadly, beyond concerns of access and network neutrality.

Using these theoretical insights and combining it our focus on the role of technologists in shaping systemic change in media and communications policy, we can better conceptualise the ideational and discursive basis for ongoing policy change in India. To be sure existing scholarship on the internet and politics in India has largely focussed on issues in digital infrastructure and 'diffusion' of the network in the country (Milner 2006). Moreover, for most part the focus has been on specific moments while the wider shift towards recognising the rights of citizens hasn't been explored in full detail. At the heart of such studies is a normative focus on technological change that is seen not simply as a means to expand the media system but as transforming the public sphere into a 'playground for liberal ideas' (Hofheinz 2005: 78.)

On the one end are the 'liberation technologies' or LibTech theories. Diamond (2012: p. 70.) argues that information and communication technology (ICT) 'can expand political, social, and economic freedom' and emphasises the exceptional impact it has on the information networks due to the 'decentralized character' of online networks and their 'ability (along with mobile phone networks) to reach large numbers of people very quickly' (Diamond 2012: 70). In focussing largely on the diffusion of infrastructure and the 'race to connect,' the LibTech perspectives reinforce the assumptions about the benefit of technological intervention from

above rather than take a view of policy 'from below.' In particular Diamond (2016) has been an active advocate of international intervention for defending 'internet freedom' worldwide, an idea which echoes the wider claim about the need for democracy promotion by Western powers (Diamond 1995).

Unsurprisingly, critics have reversed the LibTech argument to suggest that 'the internet' is a manufactured concept used primarily by the powerful Western states and corporate elites. One of the basic criticisms of LibTech generalisations is that they ignore the political control of media system as a whole. Considering evidence from China and also countries like Iran and many Eastern European media systems, Morozov (2011) critiques the LibTech by showing how focus on the 'the internet' reflects the dominance of powerful corporate interests rather than any democratic change in the media system. These conceptions however overlook the complex politics of the internet, for instance in the case of China, Hughes and Wacker (2003) have argued that Communist China's strategy to deal with the internet reflects a deeper historical and intellectual lineage of media policy, while Zhao (2011) shows that state control over the press and media continues even as the internet is allowed in more entertainment-oriented side of media and mass communication.

A more expansive framework of digital and internet related policies would certainly be more attentive to the role of ideas, ideology and more broadly politics in shaping policy. Particularly in the context of India's media system, we need to explain the role of technologists who possess what Schmidt (2002) calls 'background ideational abilities' which is could be central in adapting policies with emerging technological change. Scholarship on international debates on the governance of the internet has already underscored the value of 'grassroots technologists' (Hintz 2009) in setting policy agenda at various multi-stakeholder fora such as the World Summit on Information Society (WSIS.) I would similarly argue that it's important to consider

the role of policy ideas and technology related activism and relate to a historically grounded framework of policy change. Hence, before we can analyse the role of technologists and their discourse is playing in the context of the emergence of the internet in India's media system, it is equally important to clearly conceptualise the ideological and political context of Indian politics of media and communications.

Part II

Media and communications policy in contemporary India

Before we analyse when and how ideas, discourse and activism matter in technological change, we need to reconsider the political and ideological context which shape the politics of media and communications politics in India. In particular, I will briefly review the literature on press, television and mass media in India to consider how Hindu nationalism have been seen as central not only in the constitutional and legal context but also in the context of media globalisation in the 1990s. Besides underscoring the significance of 'cultural nationalism' of *Hindutva*, I will also then discuss how it differs from other forms of Indian nationalisms and highlight the significance of studying these differences in the context of media policy. Finally, I consider the more progressive 'communication rights' movement which have emerged in the recent decades and also relate it, in terms of shared politics and ideas, with India's free and open source software (FOSS) related technology activism and conclude with a brief conceptual note on the role of 'technologists' in India today.

Before discussing *Hindutva's* communal nationalist ideology and bigoted worldview, we can begin with a general review of the state of the art on media and communications politics in India to underscore value of discursive institutional in clearing some of the conceptual issues in the existing scholarship. As mentioned earlier, in the Introduction, contemporary accounts

of press policy have often overlooked, or ignored, the role of cultural and Hindu nationalism even though it has been consistent feature of India's democracy, particularly in the context of mass media and its role in sharpening the social and religious divide over the decades.

As already discussed, categories such as 'liberal' and 'progressive' strands used in defining political basis for press related policy debates until the 1990s (Parthasarathi 2014) do not conceptualise realities of *Hindutva* at all. It neither identifies the persistent challenge of communal ideologies and anxieties about communal violence in the context of policy nor does it help us delve deeper into the broader deliberative context in which *Hindutva* has long been an important player in shaping the contours of media freedom as well as freedom of expression more broadly. Such ambivalence is not helpful, and scholarly literature on media and communications must draw attention to its dangers if we are to understand the political nature of India's media system, and develop theories of the press and political communications that are attentive to the social and political realities that dominate its electoral democracy today.

Accounts of broadcasting policy (Ninan 2000, Jeffrey 2009, Narayan 2014, Mehta 2008) have all indirectly underscored the role of nationalism, although to an extent the theme of economic globalisation and expansion of mass media and telecommunications have remained far more dominant in the analysis. Meanwhile the scholarship on print and press have also reflected on the role of Hindu nationalism only tangentially, again the analysis has largely focussed on regulatory aspects concerning the gradual liberalisation of the print sector (Sonwalkar 2001, 2002; Ninan 2007) as well as in the context of the failure of statutory regulation and institutions of the press more generally (Saeed 2015). However, as yet, references to Hindu nationalism come few and far in between, and part of my effort in this thesis is to synthesise the scholarship concerning policies across India's media system to complete this picture.

Meanwhile in the literature on global media policy, again few have looked the emergence of these virulent forms of nationalism in India and largely framed the changes since rise of the internet in the framework of globalisation which places the politics of the internet and related concerns within a largely Euro-centric narrative. For instance, the rise of a Right to Communications agenda is attributed to broadcasting pioneers and political leaders such as Canadian liberal politician Joan D'arcy.[1] Here the emergence of the internet is juxtaposed against a largely Western media system and its changing 'policy paradigms' (Van Cuilenberg and McQuail 2003).

Ironically, such perspectives continue inspite of growing recognition among media scholars in India that globalisation has not necessarily led to a more participatory or even democratic media system (Appadurai 1993). Scholars of Indian media policy have even argued that globalisation did not in fact even weaken the nationalist impulse and policies have been largely in line with the consensus that had prevailed before the process of economic liberalisation and globalisation accelerated in the 1990s (Narayan 2014). Analysing the discourse of media regulation in the legislative arena, Narayan (ibid) argues that the debates in the late 1990s around the growth of broadcasting focussed primarily on protecting India's audience from 'foreign' influence, summed up in pithy references to 'invasion from the skies' used by party political elites to justify their role in media policy.

The issue of communal and identity politics, including its politics shaping the consensus behind cultural nationalist concerns with foreign media is not fully grasped in the framework of globalisation and 'regulation' which is also central to the analysis of globalisation of television

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[1] For an extensive review of the overlap in human rights and information society paradigm, see Hamelink, C. (2003) 'Human Rights for the Information Society' in Gerard, Bruce et al eds. Communicating in an Information Society, UNRISD publications,

in India (Narayan 2014.) This focus on markets and regulation tends to overlook the variation within nationalist ideologies as well as the wider canvas of public activism in relation to public policy and governance of India's media system. This is in contrast to the more nuanced scholarship on the everyday dimensions of media and technological use which has underscored the persistence of Hindu nationalism (Rajagopal 2001) and its role in adding a slant of 'calculated communalism' to the process of media development, particular in the 'Hindi heartland' of Northern-Indian states (Ninan 2007).

The split between political economy of globalisation and the view of media development from below can be bridged if we focus more seriously on media and public policy activism and discourse of nationalism as it relates to particular issues in media policy. Moreover, a shift from regulation could also help draw attention to the patterns of policy which have left behind cultural minorities and their media forms largely underdeveloped in India. Thomas (2011), Saeed (2015) and Templeton (1998) have all analysed histories of broadcasting reforms to draw attention to the significant lack that remains in 'fulfilling the constitutional mandate for freedom of expression for all' (Saeed: ibid). Even as constitutional framework isn't devoid of such politics (Burra 200) and paying attention to the historical and ideological context of media policy can similarly be helpful in understanding the value of politics and public activism which is often lost in the framework of 'state versus global' in the literature.

In fact, the persistence of nationalism and cultural nationalism, in the context of media development is not surprising given the centrality of mass media in shaping national consciousness in many parts of the post-colonial world. Print capitalism (Anderson 1983) might have brought about modernised forms of nationalist ideology in the context of colonial era, but it does not capture the complexity of politics of nationalism in post-colonial era and the ways in which diverse conceptions of nation continue to be impacted, and in turn impact,

emerging media system. In his study of the growth print media since the 1970s, Jeffrey (2009) provides crucial insights when he sets out to understand print capitalism in India, particularly at India's vernacular and regional media systems.

By focussing on the role of media both as a site for building national identity as well as an arena for negotiating changing economic interests, Jeffery shows the significance of politics underlying the expansion of the press in the recent decades. Jeffrey's argument is particularly important since he shows how the rapid expansion of both press output as well as its readership between 1977 and 1995 added to the nationalising discourse of the press eve in regional media context. He also shows that these transformations were powered by new technologies, particularly the availability of computer-based offset printing that were used by a new capitalist class of 'traders turned editors' to bond with the regional elites with the wider national economy.

While emphasizing the significant role of federalism, there is also an indication in Jeffrey's later writings (2006) about the role of cultural nationalism and identity politics, particularly in the context of radio and mass media, which seems to suggest that concerns regarding their role in mass electoral politics were the main reason for the collapse of public service broadcasting in India. In the context of radio for instance, Jeffrey (2006) shows a more specific link between the cultural nationalist ideologies and the fact that the 'Mahatma (Gandhi) didn't like the movies'[2] which played a significant role in the failure of public service broadcasting which got marginalised not through active censorship but often through misuse of discretionary powers that supressed the discourse of progressive change.

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[2] He cites, how despite of having brighter prospects, given 'an illiteracy rate of more than 80 percent at the time, and a daily newspaper penetration of no more than seven newspapers per 1000 people in the 1970s,' radio withered away. See Jeffrey (2003: 47)

In other words, Jeffrey attributes the failure of a strong public service broadcasting to the latent ideological strands within the nationalist parties. In addition, he also flags the role of fears of about communal violence, particularly in shaping the role of Congress in the post-Partition era. This could again be seen as part of the reason for the weakness in the discourse of autonomy and dominance of colonial era institutions like the Ministry of Information and Broadcasting.

In addition to themes of communal politics, we also need to unpack it relation to what is sometimes described as the 'hidden agenda' in the context of policies concerning media liberalisation in the 1990s (Sonwalkar 2001). It focusses on the crucial role of 'mercantile interests' which Sonwalkar (ibid) argues reflects the role of 'posturing of the Indian elites' in the processes of policymaking. Elsewhere, Sonwalkar (2002), also underscores the role of assertions of nationalism, but limits his analysis to the context of the decline of the institutions of the press rather than media policy more broadly. Ninan (2000), in her analysis of the regulatory debates again emphasizes persistent 'anxieties about the political and communal influence' (ibid: p. 13) and indicates how ideological forces shaped legislative debates around broadcast regulation in the 1990s.

This thesis aims to unpack the sources of these 'anxieties' and conceptualise more clearly the persistence of Hindu nationalist ideas in policymaking, not merely in the legal and legislative domain, but also in the wider public policy context. This would include paying attention to the strategic role of popular framing of policy problems and carefully unpacking the play between policy and the 'calculated communalism' (Ninan 2007) as part of a 'communicative discourse' of media policy (Schmidt 2008.) But before that it is important to underscore the centrality that cultural nationalism holds in the *Hindutva* movement and its abuse of India's diverse cultural and religious minorities in the name of safeguarding India's 'original' as part of their ideological core.

Hindutva's cultural nationalism: A challenge to democracy and media policy

Hence, before we begin to unpack modern history of media policy, I want to clear my understanding of the ideology of cultural nationalism associated with *Hindutva*, which has emerged as a destructive chauvinistic force in Indian politics and society. Whether we see the policy contestations around media and communications as 'conflicts of modern politics' (Khilnani 2001: p. 59) or as a subset of elites seeking to dominate the subaltern masses (Chatterjee 1999), it would be a folly to ignore Hindu nationalism and its growing influence. *Hindutva* has already been considered to be at the core of modern media and communications in contemporary India, and as media scholars (Rajagopal 2001, Ohm 2014, Banaji 2018) have shown, this violent movement has a long history of involvement in audio and visual cultural policy and politics in contemporary India.

On the political front, Hindu nationalism or chauvinism constitutes the guiding philosophy of an ultra-right-wing movement and ideological force behind the rise of the Bharatiya Janata Party (abbreviated as BJP). Corbridge et al (2012) characterize *Hindutva* as a mirror of the 'banal nationalisms' found in many European states that they argue use religion as a means to politically marginalize religious minorities as well as the supporters of secular and democratic politics. In India, this includes frontal attacks on the secular fabric of a diverse and multicultural society, a process that does not so much correspond to the alienation stemming from modernity's secularising impact, but to the conception of India as a democratic secular nation state (Vanaik 1997).

Historians who have traced the origins of this fascist movement in India's history have related it to the militant reformists in colonial Bengal as well as to the *Brahmanical* ideologues in Western India who used the victimhood of colonial era to carve its own version of cultural nationalist identity. In identifying *Hindutva* movement as a militant political force that focusses

on 'cultural nationalist' ideology, in this thesis I refer to it also in terms to its exclusionary ideas that have a longer history of oppressing cultural and religious minorities as 'foreigners' in the country. While there are other ideas of the 'nation as the motherland', which became prominent among several Hindu revivalist movements in the sub-continent over the 19th century (Bose 2017), what is unique about the *Hindutva* movement is that rather than embrace its multi-faceted aspects, it uses a distinct 'instruments and idiom' (ibid: 82) to fine-tune its own discourse of national building. This often means the exclusion of non-Brahmins, particularly Muslims, and every other marginal community as 'foreign' to Indian civilisation.

Not unlike many other ethno-nationalisms, its founders asserted that India should become a community only for Hindus, and inevitably it was an elite group of men who did the work of evangelising this ideology in the public arena. According to Jaffrelot (1999) Hindu nationalist and its cultural avatar was first codified in print media most thoroughly by VD Savarkar who also coined the terms in his book *Hindutva: Who is a Hindu* published in 1923. His idea of *Hindutva* relied on the conception of a 'soul of the nation', in practice this meant allowing or insisting upon 'the integration of minorities by means of acculturation.' This exclusive cultural conception became the core tenet of *Hindutva* politics and over the last eight decades it has consistently tried to violently and forcibly pull India's society into the acculturation process.

Since independence, first the Jan Sangh and the Rashtriya Swayamsewak Sangh (RSS), which describes itself as a 'cultural organisation' promoting *Hindutva,* has served this ideological agenda. It has mentored to a range of political organisations, which are all ordered as part of a one big family of affiliates; the *Sangh Parivar*. With the backing of the RSS and its cadre, the BJP spread its networks across the upper-castes in North-India, and in recent years has been successful amongst the lower castes and other marginalised groups too. Besides mass forced acculturation programmes, the RSS and BJP combine has also been successful in making

Hindutva a politically powerful right-wing 'authoritarian' force in India's democracy (Vanaik 1997). Besides fielding candidates in elections through the its political wing the BJP, the *Sangh Parivar*, also conducts its ideological affairs through mass propaganda including running cultural camps or *shakhas* and mass media where its leaders seek to indoctrinate ever more numbers of Hindus within its ideology (as well as training in the use of arms and ammunition.)

Besides their use of extreme hate and violence against religious minorities, often conducted under the auspices of their militant students' and youth wing, the *Hindutva* leadership relies on *prachaar* or mass propaganda as means for the acculturation project. As Banaji (2018) summarises, in the recent decades, 'Hindutva's banal and spectacular audio-visual discourse overwhelms public communication' and provides it with ability to mobilise mass support as well as forms of vigilantism that is aimed at creating extreme polarisation in the public sphere. An important dimension of their growth is the use of technology, particularly television and audio-visual content production which has been found to be a common characteristic in cultural and ethno-nationalist movements elsewhere.

Moreover, the interplay between the mass popular politics of Hindutva and its attempts to capture public policy and deliberative arena of the public sphere provide is intrinsic to their media strategy. In the context of audio-visual production for instance, *Hindutva* groups often claimed to be representing a community based rather than communal ideology. This constitutes a form of cultural nationalism where a 'stereotypical fixation of the 'Muslim Other' is a key aspect of their media politics (Banaji 2018, Ohm 2014), and as this thesis shall explore, this aspect allows the right-wing ideas to seek control India's media system. More recently, Prasad (2018) has argued that *Hindutva* discourse of nationalism is central to the debates around internet infrastructure in India and hence it's important to map the overlap between Hindu nationalism and triumphalist framing of India's IT sector in particular policy contexts.

New media is in fact *Hindutva*'s latest hunting ground for spreading cultural nationalist symbols and narratives as well as routinely targeting their political opponents. Trolling, a virulent form of online activism, has been deployed strategically to target its opponents, particularly targeting minorities and women in the online public sphere (Udupa 2017, Chaturvedi 2016). This again reflects the significance of globalisation for Hindu right-wing, where questions of hate speech are routinely used by ultra conservative and nationalist groups to target media and human rights reforms (Bob 2013). In particular, the internet and online networking technologies have been central to the *Hindutva* efforts to 'defend the advent of a Hindu state in India, while projecting the universal appeal of their ideology' (Therwath 2012).

Online websites, as well as the IT sector interests broadly, run by *Hindutva* proponents have been essential to galvanise support as well as use it a place for public propaganda and fund-raising since the late 1990s (Jaffrelot and Therwath 2007). Lal (2003) similarly argues that rather than see online activism only through the lens of radical Left politics, the case of 'cyber-diasporic nationalism' of *Hindutva* shows that these technological changes are equally susceptible to a more conservative ideology. So far these strands of research have not combined the focus on cultural nationalism and its impact on media policy, nor have policy scholarship in greater detail the distinction between the *Hindutva* politics of media from the more progressive strands of Indian nationalisms.

Composite nationalisms and the many ideas of India

While *Hindutva* has emerged as a powerful force in the electoral arena, through its political wing the BJP, it is not alone in embracing modernity and technology as a means to reconstitute the vision of India as a developing economy. After all, India's journey from a colonised country to a modern state also generated many other ideas that, as Bose (2017) puts it, included 'different universalisms and colourful cosmopolitanisms'. In analysing the rise of the BJP,

Vanaik (1997) has argued that the crisis of rising religious polarisation is partly due to this weakness in the 'developmental state' that was envisaged by the oldest nationalist party of India, and partly a result of reinforcement 'liberal–left sections discovering special virtues in India's 'distinctive' secularism.'

From an institutional perspective, in comparison to the fascist strains in *Hindutva* ideology, Congress leaders have been a far more moderate and internally diverse in conceptualising the idea of India. Khilnani (1997) has argued that 'as the prospect of independence approached and as the prize of power loomed, the fissures within Congress became prominent.' Within the diversity of voices included the 'Gandhian, socialist, conservative, capitalist, Hindu' (ibid: p. 28) who thronged to the busy corridors of power in New Delhi and gradually acquired commanding positions both within the executive as well as in institutions of media and economic leadership. In the early decades of the republic, no other party managed to upset the 'Congress system' which began to fritter away in the 1970s and eventually gave rise to the 'majoritarian turn' in India's democracy used most directly by the *Hindutva* forces (Palshikar 2017).

Besides the conservative and Hindutva apologists, the Congress-led nationalist movement represented a panoply of intellectual worldviews and viewpoints. Even today, it remains a vital force as far as 'secular idea of India' is concerned, but much like their *Hindutva* antagonists, the party often advocate for the protection of minorities largely in terms of secularisation (Palshikar 2017), while avoiding broader public deliberations to could include minority rights and broader discourse of media in terms of its role in enhancing cultural citizenship (Konig 2016.) As a result, in spite of being the second most powerful party in India's mass politics its agenda and appeal is frequently tarnished by prejudices and conservative streak among a section of its leadership. As Habib (2017: 11) reminds us, these are not current trends, but that

even the early 'liberal view of nation' within the Congress, most leaders sought to 'reform their society and its religious practices in order to adapt them to Western modernity while preserving the core of Hindu tradition.'

While at odds with the RSS, Congress leaders like Vallabh Bhai Patel as well as many leaders at the regional level, especially in the Hindi-heartland of north-Western India (states like UP and Bihar), were not beholden to the secular idealism espoused by leaders of the anti-colonial wing of the Congress. Yet, it was the anti-colonial modernist vision of India, best articulated and represented by the various socialist and progressive wings of the party that emerged on top after India's independence. Jawaharlal Nehru, who became India's first Prime Minister, made 'honest if halting attempts to uphold constitutional morality' (Guha 2008) which became the hallmark of the democratic experiment in the country's politics and governance.

Apart from the nationalist brand of politics, represented in and through both its militant movement as well as institutional form within Congress, the significant strand that represent distinct anti-colonial ideas was itself divided among the moderate and myriad revolutionary movements that emerged in various regions of the subcontinent. Habib (2017) has differentiated between the Nehruvian idealism and the 'indivisible nationalism' propounded by the anti-sectarian politics of Congress leaders like Maulana Azad as well as the 'revolutionary vision of the nation' espoused by Nehru's arch rival in the party Subhash Chandra Bose.

This brief overview shows the internal diversity in the Congress and should help us understand their inability to endorse forcefully the ideals including those concerning freedom of expression or safeguarding the liberties in absolute terms. On the question of media and communications for instance it is important to understand why the mainstream of Congress leadership, which remained in power for almost six decades after independence, might have been reluctant to

promise constitutional guarantees of greater freedoms. Unlike the revolutionary wing of the party, the secular nationalist leadership came to power through party political activism which included practices that betrayed the idealism of pre-independence era struggles. In particular, its experience of communal polarisation at the time of India's Partition, which saw incredible levels of hate speech and violence against minorities ensured that their ideological arc bent towards restrictions rather than absolute liberties (Chandrachud 2017).

Moreover, as Khilnani (1997) argues, in spite of the colonial experience and contact with British political culture, or perhaps even because of it since it came a collectivist moment in the history of British liberalism, Congress leadership was never beholden to the ideal of a rights-based framework. Instead, the approach that dominated the Nehruvian era, including the constitutional debates, had a spirit of paternalism in terms of policy-making including in the development of India's media system. It thus becomes imperative to reconsider the crucial ways in which 'Nehru-Sarabhai' line (Saeed 2013) which dominated the Congress approach to mass media as a form of defensive strategy to retain an upper hand in policymaking. In this sense, the Congress as a political movement is quite distinct from the *Hindutva* and its ideological slant that consistently seeks publicity and uses extreme forms of hateful propaganda as a means to polarise Indian society.

Alternative ideas, social movements and communication rights with an 'Indian tenor'

The absence of rights in the nationalist register does not mean that such ideas bypassed India's contemporary media and communications politics altogether. Recent scholarship on media and communications has also started to disaggregate the various strands of political and the more social reform activism that have engaged with problems of media policy too. More broadly, even in the electoral context, the *ethnicisation* of politics has not meant that there is no alternative Left in India. In fact, Ruparelia (2016) has argued that since the 1970s, 'socialist,

communist and regional parties' in India have sought to forge a progressive 'third force' which in the electoral space takes the form of a 'democratic Left' in India's democracy.

These are also at the heart of the current turn towards a rights-based politics that has gained prominence particularly in the context of employment and core sectors of governance (ibid). In this thesis, whenever I am not using specific party names, it is these political groups and allied social movements that I have in mind when I refer to 'Left' parties. These third forces and their role in media and communications policy in India has only been discussed in the context of electronic media regulation, particular in the 1990s when these parties rose briefly to national prominence at the same time as the emergence of a television as a mass media (Narayan 2014). However, if we consider the new media the scenario could be very different since efforts to legislate new laws and restricting the debate to themes of nationalism have not been as successful as had been the case in the past.

Before I discuss their role in shaping the progressive 'communication rights', it is important to underscore that these political groups are far more opposed to the Hindutva agenda than any other political forces in the country. As scholar and critic of Hindutva politics Romila Thapar (2016) has put it, parties like the Communist Party of India (Marxist) and other regional Third Front really envisage a more secular, democratic, and broadly Left of centre vision of India. The axis of secularism, people's democracy and a commitment towards redistributive politics defines its approach to institutions and activism both within and beyond the electoral context. In this thesis while I do use the term of 'the Left' as a placeholder for referring to the non-Congress but anti-*Hindutva* parties in India, I would try to refer to particular political groups, and refer to parliamentary groups by their names as and when it is required.

To begin with there are the democratic communist and socialist groups especially the Communist Party of India (Marxist) has been at various stages of the evolution of the democratic Left in India. Like its cultural and secular nationalist competitors, the Indian democratic Left tradition has similarly also negotiated a very diverse set of events that have reformulated its core ideology as well as place restrictions on it through numerous historical conjectures. Nonetheless, the theme of anti-colonial radicalism and an emphasis on populist democracy (including the various iteration of *Janata Dal*, Hindi for 'People's party') have been key aspects in their evolution. As mentioned earlier, for most part the Left bloc have also consistently been on the frontlines of communal politics fighting against the Hindutva brand of nationalism and developed deep affiliation to the cause of constitutional secularism in the country (Vanaik 1997, Ruparelia 2016).

Here the discursive institutional approach also alerts us to the particular media and discourse that these parties have relied in reaching their supporters. While it is impossible to contend that almost all progressive movements in India have drawn towards these parties, as scholar Thomas (2011) has argued almost all major activism that has taken place around the issue of ICTs and communications have been in sync with the various socialist and progressive activism and have had a broadly anti-communal ideology through their existence. The typology developed by Thomas identifies five such movements which he argues constitute of a 'communication rights' movement in India.

The first movement he argues represents a communications rights struggle with an 'Indian tenor' is the one led by Mazdoor Kisan Shakti Sangathan (MKSS/ Labour and Farmer United in Strength), a social movement that enabled and pushed for the passage of Right to Information (RTI) legislation in the late 1990s. The RTI movement is symbolic of a particular strand of India's communications rights agenda that has seen metropolitan intellectuals joining hands

with rural communities to forge a grassroots movement demanding greater accountability from the state. Initially formed in 1990 by activists associated with MKSS, based in the state of Rajasthan, the RTI movement emerged as a nationwide movement when it managed to push new legislative and statutory changes in the way government responded to the demands of the citizens. In the words of Aruna Roy, founder of MKSS, 'RTI therefore began with the right earn a daily wage, to live with dignity, indeed a right to survive.' (Thomas 2011: 96).

Another grassroots movement, since it includes a range of primarily subaltern activist groups and movements, conceptualised by Thomas (2011) as a pillar of progressive communications activism in India is the one forged by feminist and women's movements seeking to address the representation and rights of women in the media. The discourse of feminism and its relation to media and communications in India has been a subject of many studies (Ninan 2007) and comprises of many variations that often contrast as much as they have in common. As Thomas (ibid: 148) observes 'women and media movement in India is, for the most part, linked to the larger feminist movement in India' and issues such as 'censorship, sex and obscenity, the manufacture of desire by popular culture and violence against women has drawn contrasting activism and viewpoints into the public arena.'

However, no single label can capture the realities of feminist media and communications activism in India today. To restrict feminist media and communications to either left or third forces in India's democracy isn't enough although as in-depth anthropological accounts have shown (Udupa 2017) debates surrounding online freedom of expression from the right-wing *Hindutva* groups consistently target women rights and feminist activists online. Here it is important to add the idea affective affinity between feminist practice and Left-liberal movements in India's democracy, best represented by groups like *Pinjra Tod*, that seek to

utilise public communications as a means for advancing the rights of all women and not just the privileged few.[3]

However, my reference to feminist movement as part of the progressive Left in India also draws from the literature on women's rights activism around media issues that seeks to address the question of intersectionality. For instance, Thomas (2014) highlights the role of Muslim women's groups within the wider feminist media movement and their efforts that 'effectively de-centred authority based exclusively on the Muslim male perspective.' In this sense, my thesis would also consider minority and feminist voices within the framework of progressive media activism. As Jamil (2017) argues Muslim women have a long history of progressive media activism in the country and their voices represent a particularly robust strand of Left and progressive media activism.

Technologists in policy: A conceptual note

Besides feminists, minority rights activists, RTI campaigners, Thomas (2014) also includes two other groups that represent progressive activism involving IT and media technologists who seek to advance the ability of the citizens to communicate as a fundamental right in India. In particular, he identifies the movement associated with the Free and Open Source Software (FOSS) as well as another one seeking to expand the 'community radio' development in India being representative of communications rights ideas and practice in the country. These might seem as two distinct media domains, but if we consider them from a discursive perspective, the common theme that emerges is that their ideas and practices reflect a similar faith in technology as a means for social reform.

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[3] https://feminisminindia.com/2017/02/23/pinjra-tod-jan-sunwai/

As mentioned earlier, in the thesis I use the concept of 'technologist' which includes expands the domain of IT to include pre-internet era as well when it would be used in the context of coding practices in telegraphy and later in managing and developing the use of satellite networking, electromechanical engineering and later electrical circuits based technologies to store, retrieve and use information meaningfully. The engineering component is central but not to the extent that it overlooks what Kelty (2008) identifies as the public aspect of such work. In fact, Kelty has also studied Bangalore-based 'geeks' whom as characterises as an ideal public capable of constituting a space for deliberations which can sustain itself largely due to a shared ideas of social aspects of technology use rather than just building technical infrastructure.

With these two caveats, about defining IT in broad sense of engineering information structures as well as the imagination aspect being as crucial as the engineering component, I use the work 'technologist' in an even more political sense. Following Thomas (2014), who in turn quotes theorist of FOSS Eric Raymond the social imaginary refers to the constant reproduction of open-source and free software which can outpace the closed-source software production which he argues 'cannot win an evolutionary arms race with open-course communities.'(ibid: 181). Such a definition obviously includes the very basic notion of the ability to write 'code', which as Lessig (1999) reminds us is not necessarily free from the structures of political and political economy as some of the more optimist and libertarian writings about the internet might suggest.

In the literature on science and technology policy, expert practitioners and technology groups are often defined in terms of particular kinds of knowledge expertise and considered important in effecting policy change. Hass (1992) argues that they represent 'epistemic communities' and act as intermediaries in shaping political decisions and even policy outcomes in terms of setting new norms for state actors. Similarly, their role through public advocacy and setting the public

agenda has also been considered crucial, the use of mass media bring an important aspect of such activism. Besides their role in technology development, in the the Indian context, Thomas (2014) provides a more contextual definition of FOSS activism and community media building as constituting important strands of 'communications rights' movement in India.

In this study he focusses on the wider institutional context for the Free Software Movement of India (FSMI) which developed in the 1990s and was initially centred in IT hubs like Bangalore. However, over the years it has come to centre in states such as Kerala in south-India which he argues provides the basis for the more progressive strands of technology activism, largely due to a strong presence of progressive and communist social and political movements in the state. FOSS activism in Kerala, Thomas (2011: 182) has argued 'needs to be attributed to the specific political environment in the state, the role of the CPI (M)', indicating the political character of the movement.

This last point needs further clarification, since Prasad (2018), following Kelty (2008), has argued that 'recursive publics' around network neutrality debates in India have framed the problems of IT in line with the Hindu nationalist ideal of 'ascendant India'. However, Kelty (2013) has since revised his previous argument to suggest that recursive publics were perhaps a 'transient' social phenomenon in the 1990s, and has called for recognising that technologists like activists in many other domains of public policy. This again shows that it is important to explore their ability to 'coordinate collaborations' (Kelty 2008: p. 280) on issues in media policy, and work alongside political parties, amateur and IT professionals as well as industry groups associated with the development of digital media system in India.

The other point to be emphasised is that we need not conclude that somehow all technologists involved in the debate fell within this broad category or alternatively with Left or socialist

political activism; instead my thesis problematizes precisely such assumptions about technologists and tries to empirically ground their role both in the contemporary moment as well as in the deeper history of media and communications policymaking. Moving the focus away from computer-mediated information engineering and bringing in historical antecedents could also help us understand how ideas, or as Kelty (2008) has called them 'social imaginaries' have interacted in the context of policy, particularly since the emergence of the internet which in itself has had a deep relationship to the FOSS movement since the early 1970s (Raymond 1999).

Given that in India, community media and even amateur 'ham' radio have long been considered part of 'alternative media' (Saeed 2013) we can convincingly club these practices together with the progressive movements which use technology as 'tools for social justice and a platform for community voices' (Malik 2015). For instance, there has been little research on the Black Board Services (BBS) messaging boards which became popular in the pre-internet era in the 1980s. First developed by amateur technologists, and later marketed by entrepreneurs, BBS networks not only allowed the early PC users in India to communicate with one another but also as in the case of amateur ham radio signallers, encouraged anonymous discussion fora where challenging nationalism was not taboo anymore.

Not unlike the 'imagined communities' of print media (Anderson 1983), BBS networks brought together anonymous role-playing into the public realm, and as online social networks emerged on the World Wide Web in the 1990s, this 'urge to be someone else' remained central to BBS activism.[4] In this thesis, I draw from these inter-media histories to conceptualise technology activism in terms of these social imaginaries and consider all efforts to use non-

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[4] Quote from his interviews available online. Available at http://atulchitnis.net/ (accessed September 2016)

proprietorial and free software based work as constituting an 'alternative' to the dominant strands of media production. At the same time, recognising the unique elements of open source networking in the specific context of the internet, I seek to empirically map the overlaps between the 'alternative' ideas and practices with the other prominent communications rights activism.

Thomas (2014) considers both the community media and FOSS groups to be representing a communication rights movement with an 'Indian tenor'. In the same spirit, as much as possible, I try to focus on technologists who are interested in progressive social change and refer to FOSS groups with as much nuance as possible. Broadly speaking, I rely on an internal differentiation between three major FOSS groups; firstly, the Bangalore based FOSS networks, primarily related to the Center for Internet and Society that are more inclined towards liberal and even libertarian ideas. I include in this the various intellectual property right and alternative technology law networks which have been working closely on FOSS related policy activism. Again as and when required, I name each of these groups and use the category of FOSS technologists only when the meaning is clear.

Next, I consider the more grassroots movements and legal advocacy groups which are generally organised along a movement based organisation such as the Free Software Movement of India. And finally, I consider Delhi-based FOSS related technology policy networks, which include the Delhi-based groups like the Software Freedom Law Center (SFLC) as well as the Society for Knowledge Commons (SKC), both of which have developed relations the likes of Eben Moglen and Richard Stallman who have the ideas and discourse of FOSS related activism worldwide.

Together these groups represent the category of FOSS 'technologists' in the course of my analysis, although I shall refer to them by their name as much as required. However before concluding, it is important that I underscore the fact that not all technologists involved in media policy are necessarily progressive, particularly the right-wing Hindu nationalist movement which cannot be considered part of the social movement for communications rights. Hence, through the thesis, I refer to the BJP IT Cell and related activists as a separate entity. These could include individual coders, programmers as well as 'trolls' who are considerably closer to the *Hindutva* movement (Chaturvedi 2016) and quite the opposite in terms of their hierarchical approach in their practice and discourse of new media.

To summarise, I use the concept of 'FOSS technologists' mostly to refer to those strands of technology work and activism which is representative of an 'alternative' social imaginary in line with the worldwide FOSS movement. But as much as possible, I try to delineate the progressive FOSS groups from those aligned directly with the Left parties and would only use the term 'FOSS technologists' when it is unlikely to create any confusion. Together with feminist media, RTI, minority and community media, these FOSS technologists are also seen as part of the communication rights-oriented progressive politics, and as discussed earlier, can only be considered as standing alongside rather than behind institutional Left political groups and Third Front parties.

Chapter 3

Methodology

Having identified key concepts and theoretical approach for this research, I will now elaborate on the methodology used for data collection and analysis. In the previous chapter, I discussed the value of using a discursive institutional approach which requires us to pay attention to the processes of policy and consensus building, both at the level of 'coordinating discourse' of policy as well as at the 'communicative' level which inlcudes public deliberations and activism. In this chapter, I will discuss qualitative methods that complement my research design to map long-term change in media and communications policy. The chapter clarifies the use of a historical case study to understand India's media policy and elaborates on the suitability of qualitative methods for the study. I will also present an overview of my two years of fieldwork in India and elaborate on the multi-pronged strategy for data collection, ranging from archival research to in-depth interviews with elite informants as well as FOSS technologists and activists seeking to upend the status quo from below.

This discussion puts into sharp focus the limits of my framework that seeks to combine the role of social and political ideas with the seemingly routine, bureaucratic processes of policymaking. To achieve the right balance, I followed closely the footsteps of scholars of public policy and undertook my research both in an exploratory spirit to dwell deeper in terms of identifying abstract realities of ideological movements as well as with an analytical effort that focusses on explaining concrete changes in policy. Rather than provide a definite proof or conclusive evidence of causation, I used methods that could help me identify generalizable patterns about media and communications policy and bring to light the particular circumstances technological change which has the potential to enable policy shift. In accepting the limitations

that follow, I rely on the words of Hugh Heclo, who defined such research as falling in a 'middle zone': between the large questions with no determinate answers and small questions with insignificant conclusiveness (2010: 16).

Moreover, as Johnston (2002) argues, the primary challenge while studying the role of ideas, as this study aims to do, comes from 'the difficult task of describing and presenting evidence for concepts that reside in the black box of mental life' (ibid: 63). He quotes a Chinese saying to suggest that 'to call things by their right name is the beginning of all knowledge.' It is also in recognition of this challenge that I undertook my study of the role of ideas which can have different cognitive and normative implications (Schmidt 2008) and required me to closely map their presence within the framework of policy change developed in the previous section. In this chapter, I provide details of the challenges that emerged in the course of my research and explain the various pathways I took to find data and insights for this project.

Before I discuss my data collection and analytical approach, I begin the chapter with a discussion of the case study approach to study India's communications and media policy. I will then elaborate on the various stages and elements of my archival and field-based research in detail and discuss the literature and ideas that inspired and guided me at various points in research. Specific details relating to the variety of primary material used in the thesis are available separately in Appendices 1, 2 and 3 at the end and here I simply reference them to provide the context to the reader. I conclude this chapter by briefly discussing the issue of positionality in the field, particularly in the political environment in which I conducted my research. I try to open the 'black box' of my own thinking and relate my own efforts to understand politics of citizenship to the wider political context. This, I hope, will be crucial in validating and strengthening the arguments that follow in the subsequent chapters.

Media Policy in India: An important case study

As discussed in the literature review, I consider India as an important case to study the processes of ideational consensus building in media and communications policymaking. Changes in media policy agenda constitute the object of my study while the inter-related policy issues constitute what I would call sub-cases, each relating to themes of the role of the press and online communications within India's democratic politics. As a method, following from Vennesson (2008) 'casing' requires 'a critical reflection on the conventional boundaries and commonly accepted categories of social and political phenomena' and in our case this formulation is useful to expand the conventional focus on policy elites and include broader social and political movements as well as technology activism that are generally considered unrelated to the process of policy change.

The case study method requires us to adopt qualitative data collection method while simultaneously deepening the analysis to include the political dimensions of India's media system. Using the historical context is important and a case study approach allows us to convert 'historical information into a suitable analytical vocabulary that can be applied to other cases' (ibid: 230-231). Hence, even as this research attempts to re-historicise the debate on new media policy and online communications, our findings in India's context could also help others understand and theorise how politics, technology and policy interact more generally.

Yin (2004) has argued that case study is often useful in answering 'how' and 'why' questions, not simply to develop and test a hypothesis. My questions about how *Hindutva* activists responded to the internet and why have these groups not been able to build a status quo around its rise in the media sector could is best answered through casing media politics in a way that allows us to compare policy outcomes before and after the internet. Since my focus is on particular issue areas, identified earlier, my attempt would be to provide a complete picture

involving key protagonists and develop analytical accounts that highlight the flow of ideas as a means of causal influence. Here, I rely on the 'process tracing' approach that is considered 'indispensable' in developing narratives in case studies (Vennesson 2008).

As an approach in policy studies and comparative politics, process tracing is used across a variety of contexts, ranging from social policy (Beland and Cox 2010, Beland 2009) to explaining outcomes in international relations (George and Bennett 2005). It is considered particularly helpful in analysing the role of ideas in social and policy change and since this research on media and communications policy change also tries to unpack the role of ideas and their institutional role, process tracing is useful to identify the means and mechanism through which ideas enabled change overtime. Following the method adopted in political economy, such as by Hall (1993) who calls it 'process analysis', this approach is particularly helpful in identifying the various ways in which ideas can influence policy, especially in identifying the role of 'learning' which occurs in media system as a whole.

Rather than consider ideas simply floating around the 'streams' (Kingdon 1997), the process-oriented analysis also helps us understand the precise *mechanism* through which ideas emerge in the policy domain and create possibilities of policy change. By critically reflecting on the textual as well as socio-political context within which FOSS technologists and new media activists developed an alternative discourse of self-regulation, I am able to show not only *which* ideas matter, but also *how* and *when* these ideas made an impact on policy agenda. More generally, process tracing aims to identify the 'intervening causal process – the causal chain and causal mechanism' (George and Bennett 2005) rather than simply prove causality on the basis of pre-determined models.

Such an approach is particularly relevant in identifying the role of alternative ideas, but to see how they are obviously not as material as interests but can often act as switchmen who are able to bring about a shift in the way policy elites think about particular problems. For instance, the presence of new media activist and FOSS technologists whom I consider part of the coordinating discourse around media policy (Schmidt 2008) are not simply vectors transferring ideas into the political domain but constitute a mechanism which can in turn enable learning' within the media policy arena. While some have used cognitive methods to understand how 'learning' occurs at individual level (George 2004), qualitative analysis and case study method is also more helpful in understanding how ideas move from group level into policy domain.

Given the fact that literature on the internet and media and communications policy is still relatively thin, an in-depth case study lets me open the analysis beyond just textual elements and focus on a lot more contextual information about 'who said what to whom' which Schmidt (2008) argues constitutes the structure of discourse. Understanding the deliberative processes and institutions has generally not yet been tried in the analysis of media policy in India. The process tracing approach requires us to consider a wider range of primary material concerning the deliberative process rather than simply collect textual data from any single event or policy fora. The latter approach is better suited for Critical Discourse Analysis of media and communications policy, and has been used in the context of international policy (Epstein 2013) and more recently in evaluating the discourse of network neutrality in India (Prasad 2018).

Tansey (2007) has argued that in mapping processes the idea is 'not to draw a representative sample of a larger population of political actors that can be used as the basis to make generalisation about the full population, but to draw a sample that includes the most important political players that have participated in the political events' (ibid: 765.) Hence, besides secondary material on various political and social movements, in my research I collected a

range of data about various participants in the debates which concerns their role as policy actors in media and communications system. Besides documents carrying their ideas and ideological strategies, I have tried to corroborate their relations with other policy actors and combine various data points to construct the image policy processes.

Here, I also drew from the literature on methods in social movement studies that has used a case study approach to understand how ideas move across various levels of policy, from street protests to the policy agenda over time (Snow and Benford 2000, Johnston 2002, Hulst and Yanow 2016). To summarise, my method and analysis drew and critically reflected on the policy studies literature to empirically ground my theoretical framework and relied on qualitative methodologies from social movement and political studies that broaden the scope of analysis and encompass a wider range of data. The following figure reflects these categories, broadly representing different levels of data collection and the way I developed each aspect of my framework.

Figure1: Visualising data collection strategy

Archival research: Documentary research, interviews with senior journalists/media

Historical context

Documentary sources, Participant observation in multi-stakeholder meetings, elite and informal interviews.

Alternative ideas

Political context

Legislative records, Parliamentary reviews and reports, elite interviewing.

Policy agenda

Documentary sources:

Policy documents, legal records, newspaper reports

Table 2: Brief overview and time frame for various elements of data collection

Data Source	Archival and primary documentary sources	Participant observation	Interviews and face to face interactions	RTI and WikiLeaks website
Colonial era	London (British Library), Delhi (NMML) *March 2013-September 2016*			
Parliamentary and legislative debates/reviews/ reports	Lok Sabha and Rajya Sabha archives, Times of India, The Hindu *July 2013 – July 2016*	In various multi-stakeholders for a/ Internet governance debates *September 2013-May 2015*		Experts' Review Committee, IT Act 'Snowden papers' *June 2013-May 2015*
Ministry of Information and Broadcasting/ Ministry of Communications (including DEITy)/ ICRIER, and other 'think tanks' associated with Telecom sector	Delhi *September 2013 – July 2016* (additional inputs on telecom policy from Washington DC/New York *April-May 2015*		Delhi, Bangalore *Jan 2014- May 2015*	RTI application via journalist sources Delhi *Sept 2013-May 2015*
Telecom industry and IT sector.	Delhi *Jan 2014- May 2015* Bangalore *Jan 2014, Jan 2015*	*Delhi* *September 2013-May 2015* Interactions with IAMAI, CCAOI, NASSCOM, CyberMedia group, journalists working with news media	Delhi *Sept 2013 – May 2015* Bangalore *Jan 2014, Feb 2015* *Additional info: via Skype*	

		and online websites. Also, IAMAI, Google, Wikipedia foundation etc.	*(London) All through*	
NGOs, legal, media and academic fora	Delhi *Sept 2013- September 2016*	Delhi *September 2013 – May 2015* Interactions with PCI, NBA, news media and broadcast journalists, new media 'start-ups', RTI activists etc.	Delhi *September 2013 – September 2016* Bangalore *January 2014, January 2015* *Additional info: via Skype (London) All through*	
IT and FOSS activist fora	Delhi, *September 2013 – September 2016*	Delhi, *Jan 2014- May 2015* Meetings held with SKC, party political affiliated groups, Net-Mundial related events, IT for Change, ISPAI, IAMAI, Wikipedia foundation, SilkList and India-GII etc.	Delhi and Bangalore *March 2013- September 2016* *Additional info: via Skype (London) All through*	

Documentary and archival sources

The primary material in this thesis comes from documentary and archival sources that provide rich data on the politics, discursive strategies and policy outcomes relating to media and communications system in India. I will now discuss how I accessed this material and recount the issues that cropped up in the course of data collection and analysis. Moreover, since I am

not simply trying to tell an intellectual history of privacy or autonomy, my focus is more on the official sources that are central to complete picture of policymaking. In terms of my data collection, I began archival research in 2013 and the process continued off and on throughout in January 2016, and to an extent it has continued until the very end of the thesis writing.

In exploring the broad contours of policy debates, I relied on secondary sources particularly *The Hindu* and *The Times of India* to confirm precise names, dates and quotes which were easier to locate and reference through the digital database that was available to me as a scholar at King's College London.[1] Following this, as listed in Appendix 1, I turned to the primary material which fell into three broad contexts; those concerning colonial and constitutional era debates, the legislative debates in the post-independence era and finally documents pertaining to the role of technologists, including the multi-stakeholder fora at the UN, ITU and UNESCO.

In the colonial era context, which included the pre-independence legislative reports and debate, much of the material came through the India Office records at the British Library in London. Following the footsteps of prominent social historians of contemporary India, who read against the grain of colonial documentary evidence (Pandey 1990), I critically examined each report and account to avoid falling in the same colonial, or for that matter nationalist, framework that I was trying to analyse in my thesis. For instance, in reading the Report of the Committee on Press Laws, known in public as 'Ganga Nath committee report', I paid close attention to the annexures which included 'dissent notes' submitted by the only two journalists who were on the panel besides British government officials and members of the legislative assembly.

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[1] Times of India archive available on ProQuest:
https://search.proquest.com/publication/publications_54644?accountid=11862

In the course of reviewing official documents, I have made a concerted effort to focus on ideas that remain marginalised voices, particularly those questioning nationalist ideals in policy domain. For instance, in reconstructing the early history of amateur radio operators and their role in media debates in the late colonial Bombay, I had to find voices of lesser-known activists who were rarely given prominence in comparison to leaders within the nationalist movement. For alternative voices, particularly those from the progressive side of colonial era political spectrum, I often had to rely on 'Letters to Editor' section where amateur signallers could be found protesting about lack of attention to their cause.

Besides official reports, I mostly relied on legal and constitutional histories, particularly by AG Noorani who has scoured through scores of biographies and primary records to compile accessible volumes relating to freedom of expression India. Many of these volumes as well as first-hand Selected Works are now available online,[2] and the prominent ones that I relied on are listed in the Appendix 1 at the end of the thesis. Besides these sources, I also reviewed the contemporary legislative debates concerning the question of press and its regulation since the 1950s. Some of these debates (post-1996) are also available on the website of Lok Sabha and Rajya Sabha,[3] but using them is not easy. Instead, I mostly relied on the summary reports submitted which give a better sense of the ideas and worldviews of key party functionaries. In particular, the Report of the First Press Commission of India which in its three volumes proved to be a vital document, since it provides the entire corpus of historical, legal and constitutional dimensions of press laws in India until 1952!

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[2] https://archive.org/details/in.ernet.dli.2015.110452

[3] Rajya Sabha, the upper-house of the parliament has made its debates public since 2000. Text available here: http://164.100.47.5/debatenew/newarch_main.aspx

Through my in-depth study of these reports, aided by crosschecking of for precise dates and names in the Times of India, I am able to identify key themes that relate are recounted in the two historical chapters of the thesis (4 and 5). One challenge that came in the post-colonial era, was the rapid expansion of debates beyond the formal legislative arena. It reflected the general shift in the policy arena where debates about freedom of expression moved either in the courts (Chandrachud 2017) or in the more informal contexts which are much harder to map than the legislative context.

This change, from the legislature to the wider political arena, led to me to search for material concerning particular political groups which included the Hindu nationalist parties that became ever more active in the post-Emergency era. The issues once limited to the op-ed and letters to the editor moved on the front pages of the newspapers and included many different ideas and parties.When comparing the reports of the Second Indian Press Commission with the first one, I realised that it was important to critically reflect on these trends, and required me to open my search to include wider set of documents which were particularly central to *Hindutva* mass politics of media and communications policy. Relying on reading elite policy commentaries in newspaper 'op-eds' wasn't enough, I had to dig into alternative sources including publications and records that appear in the historiography of the fascist aspects of the *Hindutva* movements in India.

If the archive gave me an early hint about how to build my core argument, my review of party political material, and historiography of Hindu nationalism in particular, led me to focus more and more on the strategic communicative dimensions of media policy. I read as much publicity and propaganda material as possible, which also influenced my theoretical concern with both the 'communicative' and 'coordinating' aspects of policymaking (Schmidt 2010). Here I turned to directly reading up on individuals who were reporting on media and policy in the parliament,

and scored for biographical records that could help me contextualise the slant that began to appear in official records. These included closely reading first-hand accounts and autobiogrpahies of journalists such as BG Verghese, Kuldeep Nayar as well as the more scholarly accounts of the Emergency which have been published over the years.

I was also able to access most of these as well as other biographical material on Indira Gandhi at the Nehru Memorial Museum Library (NMML) in Delhi. The NMML was established in the memory of India's first Prime Minister Jawaharlal Nehru and now holds valuable records on the contemporary Indian politics. It also gave me access to biographies of lesser known 'Third Front' leaders like IK Gujaral who had served as the Minister for Information and Broadcasting in the Emergency years.[4] Once I could locate certain events in these documents, I would then return to the newspaper archive to get more detailed quotes and precise dates in the online archives of the Times of India and The Hindu which often provided me to develop a strong coherent argument about the history of media and communications policy in contemporary India.

In search of ideas and institutions in the field

I began field research in the autumn of 2013. The main purpose, as stated earlier, was to further open the 'black box of mental life' (Johnston 2002) that shaped some of the crucial decisions in media and communications policy in the recent years. In the course of my field data collection, I focussed on the widest possible set of ideas and networks to reconstruct the processes of policyamking since the time when the internet began to have an impact on policy. Here, I used a combination of participatory observations with elite interviews to find answers

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[4] I draw these conclusions from the biographical and official papers of Gujaral available at the NMML.
http://nehrumemorial.nic.in/en/archives/catalogue-of-private-papers/institutional-collections.html?start=105

relating to particular issues areas. This approach, combining multiple methods, used often by political science in South Asian studies (Jaffrelot 1999, Tillin 2014) as well in media studies (Narayan 2014; Jeffrey 2009; Mehta 2015) added to the insights gained from archival reviews and other primary sources.

As my research included deliberative aspects of policymaking, I was keen to enter the very processes which result in framing of media and communications policy issues by various policy actors. Based in India's capital in Delhi, close to the official and policy institutions, I wanted to gain a bird eye view of the various domains of media policy as well as build a worm's eye view of the politics 'from below' which ultimately underpins the seemingly routine process of decision-making and consensus building. Besides focusing on media policy hubs, such as the Press Council of India and industry fora like the Federation of Indian Chambers of Commerce and Industry (FICCI), I took advantage of Delhi as a vantage point to scan the wider policy ecosystem and build rapport with other relevant groups. Through such interactions I was also able to interact with activists from other cities like Bangalore who spent considerable time in Delhi as part of their advocacy work.

Equally important, besides collecting key texts, statements and a broad variety of legislative material drawn from the offices of various political and governmental offices, Delhi also opened a window into the wider deliberative arena. In the course of my fieldwork I met and participated in various meetings hosted by international NGOs and think tanks which animate the life of its media policy institutions. In undertaking this part of the research, I also drew directly from the approaches developed by sociologists studying policy change and social movement activism. In particular, I turned to the literature on qualitative methods in social movement studies (Benford and Snow 1993, 2002) which guided me to develop a keen eye for communicative aspects of public activism. Extensive field notes and a degree of personal

participation helped me build the kernel of my argument that should come through in my analysis.

My 'participation' varied from inter-personal and informal interactions with individuals to publications and formal engagement in the policy fora. In terms of making a formal intervention, in 2013, when the Snowden revelations becoming public in India, I was able to publish a comment article on the subject in the Economic and Political Weekly (EPW), which gave me recognition especially among activists engaged in policy debates in Delhi. The publication of the article 'Internet and age of Mass surveillance' laid out in detail some of the concerns that motivated my own research, and with its appearance in EPW it gave me a pretext to engage with policy observers and participants in Delhi.[5]

Besides this, I was also fortunate to win a policy fellowship that came my way in the course later in that year, in 2014, which further opened possibilities of conducting participatory research particularly in terms of reaching elite groups and diplomats in India's international media policy. The Global Governance Fellowship (GGF), offered by a Berlin based think-tank brought together practitioners of Internet policy from give different regions of the world,[6] and provided me with a context to initiate interviews and probe into my research field. In the course of the next two years, I was able to reach many participants in international institutions involved in media and communications policy processes, not just in Delhi and Bangalore but also in five major capitals of the world.

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[5] Published online: http://www.epw.in/journal/2013/47/web-exclusives/internet-age-mass-surveillance-domestic-dimension.html?0=ip_login_no_cache%3D4d3bfc936497a1c196d2f5af4402143b

[6] http://www.ggfutures.net/alumni/2025-fellows

As the list in Appendix 2 shows, I was able to not only observe the processes of policy negotiations across a range of industry and NGO fora but also engage in policy debates as a participant. In addition, the fellowship also allowed me to reflexively think about the process of policy consensus building and see the role of ideational coordination up close rather than the 'optics', which is how many senior policy advisors referred to the popular discourse and rhetoric that appeared in the public accounts of policy negotiations. From September 2013, when I moved to Delhi, until May 2015, when I finally published the GGF report in May 2015,[7] I had several opportunities to meet senior Indian diplomats and industry groups, including those working the international groups like the Internet Society which are active in policymaking across the world.

These aspects however were secondary to my own efforts to reach media and IT policy related NGOs and a range of 'public policy consultants' who were would not have been accessible had I not had a journalism background before moving into academia.[8] I shall describe the details relating to aspect later in the chapter, but what I found distinctive about India's media policy arena was the polarised nature of policy fora, as in many other countries which I visited as part of the GGF fellowship. However, unlike European countries like Germany for instance, where I observed a strong internal coordination and the importance given to closed-door discussions that brought together key industry actors and NGOs together, in India the negotiations were led by powerful politicians who often had much more presence online and in the electronic media than in the op-sections which were preferred by leaders abroad.

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[7] Available online: http://www.gppi.net/publications/rising-powers/article/shared-responsibility-towards-more-inclusive-internet-governance/?L=0%2525252525252527%252525252525252522%2525252527%2527%2522

[8] I worked as a correspondent with the CNN affiliated private English news networks called CNN-IBN from 2005 to 2009, and subsequently joined an international NGO as a press officer for a year, 2009-2010.

As Appendix 2 shows, in the course of my eighteen-month long stint in Delhi, I interviewed and interacted with a range of individuals and officials from non-governmental fora and organisations. These included semi-autonomous bodies affiliated and funded by government agencies, such as the Cyber Café Association of India (CCAOI), Internet Service Providers Association of India (ISPAI), Internet and Mobile Association of India (IAMAI) and a range of key digital media and IT industry related lobby groups. In each instance, my background in journalism (described in detail later) was crucial and provided me access to activists and officials who attended such events. Rather than directly speak as a participant, I was mostly part of the audience in 'multi-stakeholder' meetings which included several 'closed-door consultations' hosted by fora that are listed in the appendices.

One such fora, where I had been invited as a member, was a policy network Cyber Café Association of India (CCAOI) which hosted many discussions around the theme of 'Indian Internet Ecosystem' in February- April 2014. Officially designated as 'multi-stakeholder' deliberations, such fora allowed me to closely track not only the textual substance of policy debates but also observe the divisions within 'civil society' which I had also tracked in the legislative debates. In addition to these closed doors events, there were several open and more popular cultural fora such as *Manthan,* an annual award function hosted by a consortium of national NGOs in December 2013, was more like the proverbial jamboree complete with a late evening puppet show for hundreds of digital media workers attending the event (details in Appendix 2)

Besides these formal events, there were many professional and amateur activist gatherings which I attended or observed from side lines. These included the National Association of Software (NASSCOM) that has its headquarters in IT hubs of Bangalore and Hyderabad. However, as Appendix 2 shows, many of these groups held an annual round of policy

deliberations in Delhi. The internet based protégé of NASSCOM, the Internet and Mobile Association of India (IAMAI) for instance held a 'digital marketing summit' in Delhi in 2014 that was sponsored by some of the biggest industry players in the online content and search market. Delhi thus gave me an opportunity to observe the leading digital media industry within specific policy related contexts. Similarly, there were several groups which also organised 'hackathons' and other FOSS events who attended such events and had an interest in media policy. Some of these groups are still listed in the appendix even though I could not get access to their core networks, but since I did get to informally interact with them which led me to discover new documentary sources, I list them in the Appendix 2. Quite often besides participating in policy events, I often had opportunities to hold one-off discussions or even extended interviews with experts and activists attending these events. I discuss this in detail in the next section and show how expert and elite interviewing complimented my efforts to gauge the politics of new media.

Elite and expert interviews

If participating in events and observing policy deliberations helped me delineate key groups and their ideas that constituted policy discourses, I still needed to understand how and where their involvement had an impact on policy decisions. As discussed earlier, I am writing an account that moves beyond considering policy as a game that fits into a media system model, instead showing how policymaking involves *thinking* about the problems and the role that intermediating discourse can play in shaping the outcomes. In methodological terms, this also meant that I had to understand the precise flow of ideas from the public arena into the policy domain and figure out the way party political motivations, social activism and eventually ideas and worldviews played a role in the process. Here interviewing individuals in the know of particular details of any policy deliberations proved quite helpful, not merely in terms of

finding out the origins of particular frames, but also about how ideational and discursive formation operate in the absence of a formal institutional context.

As a result, besides participating in the various deliberations, I spent considerable time conducting one-to-one interviews with policymakers and 'elites' who had influence in terms of shaping the public agenda. Following on the general principle that 'elite interviewing' only works as good as 'the researcher's knowledgeability of the interviewees' (Mikecz 2012: 491), I benefitted from having again done my homework both in the field and the archives (not to mention the more ad-hoc approach of checking the Twitter feeds of my informants before meeting them.) Here I refer to my informants as elites and experts because they often belonged to a privileged group, mostly based in cities like Delhi and Bangalore, and commanded considerable power in the field of media policy-making. Appendix 2.1 lists the key informants and experts whom I interviewed in the course of my research.

In all, from November 2013 until May 2015, I conducted over a dozen formal interviews where the informants agreed to sit for a considerable duration of time and answer what would be defined as 'unstructured' or 'semi-structured' (Flick 2002: 227) questions relating to their role in policy activism or processes of official and political decision-making. In addition, I also engaged in an equal number of more informal interactions that ranged from short but focussed conversations to very long winding, detailed but largely off the topic discussions with individuals and policy advisors to the government and industry. As Table 2 shows, I categorised these in groups, although in many instances some interviewee would very well be part of 'industry fora' but also active participant or sponsor for an event associated with the more activist NGO sector.

In every instance, including in informal deliberations with diplomats and government officials, the entire conversation would remain off the record. Sometimes I even kept my notebook aside as I could sense that the interview would proceed much better if I removed the sense that it was ever going to be reproduced in public. Although the need to anonymise added to my burden to incorporate this information into my analysis, largely due to the fact that I had to be doubly sure about anything I put down in the thesis, and cross check that what I had *heard* was not already publicly available stance. Where ever I could, I used a public or newspaper record to establish my argument. Nonetheless, *listening* to industry insiders, even informally and often only in casual interactions, allowed me to confirm the insights which I had sometimes overlooked in evaluating the documentary material.

Taking these to be a continuation of the unstructured, often impromptu, conversations that I had with many informants at formal public events, the interviews provided me valuable insights that I had gauged by participating and attending various policy discussions. Most of these discussions were held in Delhi with the exception of few interviews with IT specialists and FOSS technologists that took place in Bangalore. Appendix 2 also lists some of the key FOSS technology related hubs where I could meet individuals and groups, particularly with industry representatives as well as journalists from mainstream publications who were not always forthcoming in accepting interview requests but were open to casual questioning on the side lines of such events.

In order to overcome any trust deficit, I had a detailed **Information Sheet** ready for any potential interviewee and on occasions as and when they agreed, I also got them to sign off on a Consent Form that assured them that the information used in the thesis would not be reproduced with their name or identity. As Appendix 3.2 shows, the information sheet provided the details of the research to the potential interviewees and in the course of my interaction with

these individuals, I relied on this to reach out to my respondents. Even then, quite often informants would not agree to formal interviews and would only agree to speak informally to be double assured that this was to 'just to get an idea'. The reason for why they did not agree to a private interview could partly be explained due to my own position in the field as a researcher studying what had become quite a sensitive matter in politics, perhaps, and partly due to the political climate at the time, which I discuss in detail in the subsequent section.

Attached in Appendix 3.2, my information sheet invited 'people who have been have either been part of the policy-making processes or have been witnesses to the various policy debates on these topics' and given that the ethical review preceded the fieldwork, it ensured a solid basis for my field strategy. In defining my research, in my information sheet, I addressed 'policy specialists working in the government, academics, journalists and members of the civil society who engage in these policy debates' and thus allowed me reach a wide cross-section of policy experts and activists in Delhi and Bangalore. The fact that I had included 'Policy debates related to development of the internet network in India, regulations related to social media as well debates about India's policy goals' in the sheet, as well as 'choices regarding global communications networks' enabled me to reach out to a broad range of respondents in the field.

The data that I collected from these interactions fit into both the 'process' as well as 'context knowledge' type, a typology discussed by Flick (2014: 229) to differentiate between the kinds of insights gained from interviews. I was able to gain not only specifics in terms of key ideas and the way they shaped processes, such as why such and such legislation *worded* a problem in a particular way, but also in terms of understanding how particular issues gained political salience, relating to what Schmidt (2008) calls the coordinating aspects of policy. Hence, I directed my questions along two specific lines; firstly, to crosscheck the substance of particular information gleaned from primary material about which the interviewee had in-depth

knowledge, and secondly to understand the institutions that related specific ideas to the policy field.

Following Hochschild (2009), elite interviewing is also suitable for understanding 'the role of memory and perception in political or social activity, and the role of elites (broadly defined) in a political, social, or economic processes'. This insight was particularly helpful in reconstructing how ideational lines emerge within closed groups of specialists, particularly those working with technologists, and then spread across key nodes that link individuals to wider organisation and alliances. A formal social network analysis (SNA) of technology activism in Delhi and Bangalore would be very helpful in further understanding the characteristics of key groups and identify core individuals and organisations that serve as nodes spreading ideas. Although I do not use this particular methodology, it could very well liven up my analysis of how these linkages as constituting discursive institutions able to restrain powerful ideological forces active in the political arena.

There are other more obvious gaps in my method, most prominently the lack of interviews with right-wing activists who are at the heart of the analysis. Among the important discussions that I could not fully follow up on, partly due to personal reasons that as I discuss in the next section, were those concerning the role of Hindutva and ultra nationalist groups which are rather difficult to gain access than many progressive movements that maintain strong presence in the public arena. There is already a lot of literature available around the violent and vigilante nature of Hindutva groups, and for most part I rely on excellent ethnographic accounts of the movement to reconstruct their role in media policy. Besides the secondary literature, I also relied on interviews with many activists and journalists covering Hindutva politics who answered my questions about the seeming paradox in Hindutva activism, which seeks to

polarise policy on questions of 'foreign' culture and yet use the Internet freely for their propaganda.

In one interview with a prominent online media editor, who had reported on the BJP-led coalition government in the late 1990s, it I was able to tease out how this a running theme amongst journalists covering this far-right movement. Even though I did not interview any major leader directly, I did attend meetings addressed by the *Hindutva* leadership (Appendix 2.2) and substantiated it with interviews with journalists in Delhi who helped me strengthen the arguments presented in the subsequent chapters. Interestingly, I had a much less difficulty in identifying and interviewing Left affiliated political activists, many of whom worked not only as party apparatchiks but activists and engaged in campaigning that were open to me as a researcher. As one Communist party of India (Marxist) affiliated NGO activist put it, every 'activist wears many hats.' Being able to see these networks was crucial in solidifying my argument, especially in terms of understanding the 'coordinating' discourse of policy which complimented the more communicative aspect of their advocacy through the mainstream press and the wider public sphere.

Journalistic sources and triangulating findings in the field

Besides the archival and participatory methods listed so far, I also collected primary material through Right to Information (RTI) petitions that further helped strengthen my argument support my findings in the field where I was often unble to get precise details. Following from Halperin and Heath (2012), I constantly sought to support my findings from one source by 'triangulating' them with information from another. For me this meant not only corroborating knowledge and insights gained from another source, but linking 'different levels of information' Flick (2012: 189) to arrive as a more substantial analysis. At one level this meant interviewing my subjects first hand and then cross checking details with with multiple

secondary sources. However, at another level it meant accessign data that was mentioned in the course of the interview but of which I had little knowledge until the time.

Here, I often relied on journalists and other activists who had access to relevant policy documents which they had themselves acquired through the use of RTI or even documents revealed through online whistle-blowing. These records proved absolutely significant because they provided information which was simply not available through any other means. Some of these documents included reports or policy negotiations that were conducted at the behest of Parliament but never placed in the public domain. For instance, the Standing Committee report on the Parliament on the issue of IT Act amendment gave me an insiders' look into the debates and substantiated the details I had gained through interviews with two of its key members. Similarly, my analysis references Expert Committee Review of the IT Act in the mid-2000s, which I accessed through an RTI filed by a journalist with a national daily, shows how the Congress leadership followed advice from IT experts and their openness is central to my argument about the gradual change in their views about the internet. A brief list of key documents accessed through such sources is available in Appendix 1.

To summarise, even as my formal interviews continued, I constantly sought official records to find and fill any gaps that began to appear in my data following the interactions. Much of this was also possible due to my knowledge about the field, on which I had reported as a journalist from the year 2005 until 2009. I could ask journalist friends if they had a copy of original documents or if they knew someone who could share it with me, assuring them that I would keep their identities secure. In this context, the support I got from the journalists in Delhi and Bangalore has been crucial in my research. Their access to records was important in developing a sketch of the contempoary politics and triangulating these records with face-to-face interviews was absolutely central to my fieldwork.

Positionality and reflexivity

So far, I have discussed the challenges I faced in finding primary material and the methods I used to analyse and make sense of political debates that I was studying in my research. As I have shown in the previous chapter, there has been growing interest in the ideational sources of media policy worldwide (Raboy 2002, Pickard 2010), as well as in India (Thomas 2014, Parthasarathi 2014, Prasad 2018, Ninan 2000). While scholarship on Western media includes methodological aspects involved in conducting such research, very little exists in the context of media policy research in India, particularly around the theme of nationalism which is central to my study. I will now briefly discuss the motivations that I had in doing this research, not just in the academic sense of trying to fill a scholarly gap in the literature but also in a deeper intellectual sense, elaborating on the factors that motivated and guided me to think reflexively about the changes in Indian politics and media system more specifically.

I will begin with discussion of how my research intersects with my personal biography, and reflect on my positionality and reflexivity in the field. It is important to discuss these concepts since they capture the difficulties I faced in the course of my research, and also add to the reliability and validity of my data and analysis. It also helps me resolve some of the issues that routinely arise in qualitative research and shows how my experience as a former journalist as well as my experience as 'foreign' university researcher in the field shaped my thinking, methodology and analysis of media and communications policy.

To begin with the idea of positionality draws from the disadvantage that a researcher would face in the context of conducting fieldwork. In understanding the relevance of 'positionality' I have benefitted from reading debates within feminist literature on the subject (Alcoff 1988). It helped me value 'relational positions' rather than define it in terms of intrinsic qualities of one's identity. In this sense, this also brings forth the idea of intersectionality which is a theme

that is also central to recent studies of India's Muslims. More recently, these themes have been discussed more specifically in relation the growing segregations of Muslims in Delhi (Jamil 2017) where I conducted much of my fieldwork. These discussions underline the fact that as researchers we do not simply experience power along one dimension, but in terms of cross-cutting discourses of identity that make us powerful or vulnerable in relation in the social world we inhabit.

Reflexivity (following Gouldner 1973, quoted from Phillips 1988) is another well recognised theme in the study of social phenomenon and it again signifies the importance of one's responsibility towards the society we study, not just after the research is done but long before, and during, one's fieldwork. By reflexivity, I also had in mind the idea of experience of being in a democracy as discussed by philosopher John Dewey, which emphasises the way we are shaped by our surroundings and how the process of learning intersects with our experience of the wider world. I believe that in this research I have addressed the issue of positionality as well as think reflexively about my own practice of working with qualitative methods in a field rife with social and political biases and open prejudice.

To begin with, it seemed to me that I was quite fortunate to have worked as a journalist in Delhi for several years before returning to research the same field as a scholar. However, quite soon into my fieldwork, I realised that the challenges and difficulties that I had faced, partly due to the changing structures of journalism and mass media and partly due to my own personal values and identity, were going to be a major challenge all over again. I had quit the media sector, having worked in it for over four years primarily due to the decline in the ethics and standards of the press in the late 2000s. Now, as I began exploring with these questions in a more scholarly way, I realised that the same biases and prejudices that made leave the field few years ago, still remained as obstacles.

To be sure, having been a journalist in Delhi, I was able to access some of the key informants who had been in my contact earlier, directly or indirectly, and was able to locate far more easily than many other scholars (from outside India) who would have to struggle with visas and such issues around access. However, these comforts paled in comparison to the intellectual challenge of doing research at a time which is simply unprecedented in contemporary Indian history. My background in journalism or for that matter my affiliation to prestigious institutions in India and abroad were no match for the kind of social and political polarisation which had gripped the country at the time of my fieldwork (Khare 2014). It was against this backdrop that I conducted my research, and it was important for me to clearly outline my research question if I was to survive let alone adapt to the changing surroundings.

Rather than reflect too much on the difficulties I faced in the course of the research, I will limit my discussion to my 'response' to the changing socio-political realities of India at the time. As mentioned earlier, I arrived in Delhi in autumn 2013 and stayed in the city for most of the next two years with brief trips to my university department in London and also the base for writing up. However, besides Delhi there were several other cities as well as international networks which I was able to access in the course of my fieldwork. There was a great advantage to having Delhi as my field base, for the simple fact that it brought me in close proximity to the prominent venues and activist fora that feature in this study of media and communications policy India.

In particular, I set up my base around the India Habitat Center (IHC) and the India International Center. Following the Snowden revelations in the summer of 2013, which aggravated public debates and media interest in Internet related policy, there were a series of negotiations that were hosted at these venues, and quite often, I was able to conduct informal interviews with key informants here. The venues have just the kind of relaxed atmosphere where government officials did not mind discussing policy either. It was here that I learnt that media and

communications policy had its own set of policy 'insiders' who can provide specific details for which I often would have to had work much harder had I been based elsewhere.

However, in 2014, being an academic researcher meant encountering what might be called a 'double hermeneutic' (Giddens 1984) of policy research in contemporary Delhi. As the field has developed, I realised that I was among professionals many of whom shared not only my academic interests but also self-identified in terms that I have used in this thesis, quoting 'from discourse' as 'stakeholders' involved in 'policy development'. In my interactions, particularly with legal and policy related informants, I could see the degree to which the dynamics of contemporary public deliberations reflect as awareness of scholarly concepts of management and yet an acute sense of not saying anything overtly political. For instance, I met many individuals who identified themselves as 'policy advisors' and used terms that featured in my own literature, but only mentioned 'politics' in undertones and often as if it was a line they should never cross. Some of them even held degrees in 'public policy' while others had advanced legal training. But their lack of interest, or perhaps a better sense of the changing political realities on ground, made it really difficult in terms of getting them to answer any questions that diverted towards politics.

This was in contrast to the scenario in post-independence era, which I had accessed through the archives, when there were hardly any professional policy positions available. At that time, lobby groups like the All-India Editors' Conference, for instance, would only publicly engage with politicians and some even courted arrests alongside party political leaders of the national movement. Later many of them also joined formal institutional fora like the Press Commission of India. In contrast, in the course of my fieldwork and interviews, (from Appendix 2) I was amongst groups that were far more conscious of not commenting on politics, and worked as paid policy professional, throwing around regulatory jargon of 'ecosystem' and

'stakeholdership' to define the scope of their own role in 'policy development'. In fact, it was the open and vocal support that I got from many technologists, sometimes derisively labelled 'techies' in mass media proved helpful, their insights about politics in particular and engagement with policy debates seemed important and inspiring in many ways.

Here my own position, having written on policy issues in the public made me quite aware of the thin line that separated my research work from activism which many of my informants were trying hard to avoid. It was precisely *this* realisation, which also helped me deal with the difficulties that came from my own position within India, both as a researcher and a citizen of this country at a time of deep political and social polarisation and outright prejudice against Muslims. From being deeply concerned about my own identity, especially my religious self in an increasingly communal environment, I began to think about my research framework as a means to understand the predicament of scholars and citizens in general. I wanted to make India my own research a site for developing a similar response, and in many ways, this thesis is an attempt to ground down theories in a conceptual framework that is alert to the dangers that exist to all citizens and not only for Muslims in India today.

This also meant engaging in public debate too. In February 2016, my efforts to synchronise and synthesise my research with my experience I put together a cross-country comparative seminar on the idea of 'Erosion of Democracy'.[9] Through this collaborative effort, along with fellow PhD candidates in London, we brought together a group of senior academics to discuss the rise of illiberal politics and draw comparisons between what was happening in India with that of Europe and America. This was entirely a student run event and came at the very height of political and social polarisation in India. It was through such efforts that I could make sense

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[9] "Erosion of democracy? Rising Illiberalisms in South Asia and Europe," *Panel Discussion,* 18 February 2016, King's College London (KII), London. (co-convened with JT colleagues from India Institute, King's College London)

of my own position as a scholar and a citizen. My effort was to show that the forces of fundamentalism and *Hindutva* in India were not very different from those in France, and that through a comparative reflection we could offer a framework that could encompass a response that could serve democracy and rights of the citizens anywhere.

To be sure, there was no way I could avoid the obvious difficulties of studying a violent, anti-minority movement like *Hindutva*, but my effort has been, until this day, to respond to and contextualise this challenge in the spirit of a citizen. Studying and analysing public policy is my response to understand the power of ideas as well as the role of citizens in contemporary democracy. I have done all this as part of an academic study, and thus relied on institutional support both at the intellectual level as well as at the level of mundane research, data collection and writing-up. To be able to write about contemporary politics is my way to respond to the difficulties one faces as a particular identity holder in today's world.

Studying and writing about politics, policy and nationalism since 2014, has given me a means to address the difficulties I had faced as a journalist, and in turn it has provided me with perspectives on how to contest power when it targets the weak. Writing about citizens' rights is also a means of defending my rights against powerful threats, and it is a struggle for me which is at once personal as well as universal. Understanding *this* took time and it remains a work in progress that shall continue well after my submission. I do hope that my work reflects the depth and the sincerity of my convictions, and not leaden-eyed despair. I have tried to write as simply as possible, and in developing my theories about the power of ideas, I have also used them reflexively and consciously as a citizen trying to communicate with the society in which I dwell. I see my scientific research as an important means to defend my own rights and at the same time a platform for conversations with my fellow students, colleagues in academia and society at large.

In this spirit, I shall now begin the thesis proper which, as I have said earlier, remains an exploratory study of media policy and which I hope will improve further, as I gather more evidence and experience as a scholar and citizen of India, and the world.

Chapter 4

Politics of media policy: A brief history

This chapter examines the history of media and press policy in India prior to the emergence of the internet and new media forms online. As discussed earlier, since the emergence of the internet, the debates around new media have brought concerns regarding self-regulation of the press back into the policy agenda. In order to understand the nature of these changes and continuities, and how these relate to the internet and related technology activism, we also need a sketch of the politics that moulded policy framework in the past. In this chapter, I step away from the ongoing negotiations around new media system and identify the key role of cultural nationalism and *Hindutva* ideology in shaping a consensus around policies *vis a vis* self-regulation by the press including in the electronic news media.

Using a discursive institutional (DI) framework, I begin with an overview of debates and discourses which provided a coordinating dimension to media policy at the time of India's independence. The chapter then analyses the rise and fall of secular nationalist ideas, showcasing their limitations even in the context of constitutional settlement that further limited policy deliberations around self-regulation by the press. While paying close attention to the 'instances of delayed even restrictive pieces of legislative inputs which have failed to achieve the constitutional mandate,'[1] I develop my analysis to include the wider deliberative context, including the ideas advanced by independent media and press associations and the way these weakened over time.

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[1] This is a claim from a recent review of public service radio in India. Available online: http://communityradio.in/pdf/community-radio-policies-power-and-possibilities.pdf *(accessed June 2018)*

By focussing on what Schmidt (2010) calls the 'communicative discourse', I also analyse the interplay between emerging private sector interests, especially in post-Emergency era, and rise of *Hindutva* nationalism which exploited the existing weakness in policy coordination. I also show its crucial role in retaining the Ministry of Information and Broadcasting (I&B) in the post-Emergency era, which framed the problems of self-regulation in cultural nationalist terms. The chapter concludes with an overview of the consensus that emerged in the 1990s, which saw gradual amalgamation of commercial interests and cultural nationalist ideas in mass media policy, and a complete marginalisation of the question of legal and statutory reforms along with the independent struggle for 'freedom of information' that had marked the debates at the end of the Raj.

Debating 'Freedom of Information': Media Policy at the end of the Raj

In order to grasp the political framework of media policy we have to revisit the colonial era debates that were crucial in cementing the framework for self-regulation of the press in India. Also, it was in the late colonial era, in the midst of the World War II, that media policy related debates around the freedom of the press and self-regulation took more institutional form. It was also in the context of the War that support for freedom of the press led to renewed interest in policy reform within the legislative arena that was reconstituted several times in the run up to India's independence. Given that it coincided with the wider political shift towards India's independence, this era proved to be a crucible for shaping the institutional framework especially in terms of the role of independent media associations and related deliberative fora around themes of policy reform.

The earliest debates involved several strands of progressive and secular nationalist movement as well as professional media community who emerged as 'wayfarers' (Iyengar 2001) for a generation of media activists and journalists at the time. In terms of defining key policy

problems, the War effort served as a sort of grim 'window of opportunity' (Kingdon 1997) for those seeking to start a reformist campaign. In the course of the War, the British government in India had enacted and enforced a series of punitive 'Emergency' laws and pursued a policy of severe repression which eventually precipitated in a public debate as independence grew near. The political context is evident in the debates that occurred at the time as well as in subsequent negotiations during the constitutional settlement, which then became references for the First Press Commission that institutionalised a policy framework for the press and later for other mass communications at large in independent India.[2]

Even before the War ended, in early 1940s, reforming the framework for self-regulation emerged as a popular demand of the All-India Editors' Conference (A-INEC), a group that represented some of the leading national newspapers at the time. In response, in March 1947, the transitional British government decided to set up the Press Laws Review Committee led by Justice Ganga Nath Jha of the Allahabad High Court. The committee, set up under the Ministry of Home Affairs, marked a comprehensive media policy debate to negotiate a framework for self-regulation. It not only included officials from the British Indian government but three of A-INEC's most prominent leaders.

From a DI perspective, the Ganga Nath committee offered a rare opportunity for agenda setting and institutionalise a coordinating discourse that emphasised legal reform and strengthening self-regulation in the press. Under its mandate the committee reviewed an entire gamut of laws and policy guidelines, including sections of the Indian penal code (of 1860), such as Sections 124A, 153A and 505 which criminalised printing of 'seditious' material that had long been the reason for extreme caution and self-censoring practices of the press under the colonial legal

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[2] Report of the Press Commission, <u>History of Indian Journalism</u>, British Library, I.S.408/8

regime (Chandrachud 2017). Apart from demanding the repeal of such laws, the journalists in the committee, as well as All-Indian associations beyond, wanted to reform the framework for self-regulation to include questions of ownership and autonomy not just from the state but also large private interests. In addition, the inclusion of the demands for repealing of the Indian Telegraph Act of 1885, that allowed the government authorities to lawfully intercept and monitor correspondence sent via the telegraph networks, also opened opportunity to expand the policy debate to include concerns regarding surveillance in communications policy.[3]

Inspired by the political movement and the upheavals of secular nationalism, members of the committee representing the All-India News Editors Conference and the more radical Indian Federation of Working Journalists (IFWJ) were both largely sympathetic to the aspirations for national sovereignty with the latter adding the cause of progressive nationalism and socialist ideals in media policy related debates.[4] In the course of the deliberations of the Ganga Nath Committee, the IFWJ wasn't included but nonetheless the Editors' Conference called for repealing of all Emergency powers that allowed the government authorities discretionary powers over the press and also demanded an urgent review of media policy at large.

Since the end of the War, which was also the time A-INEC's formal inception as an independent editors' association, besides legal reforms and repealing not just the 'draconian' Emergency laws of the WW II, the framework of 'freedom of information' saw the debate relate the concerns in India's context with the international debate about press freedom and rights of the journalists.[5] In defining the problem, A-INEC's leadership also envisaged broader

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

[4] A section of the Congress was keen to utilize radio broadcasts to counter the imperial propaganda. Sengupta, S. and G. Chatterjee (1998). Secret Congress broadcasts and storming railway tracks during Quit India movement, Navrang.

[5] A-INEC's president's response see Brelvi, S. "Problem of Freedom of Information: Decisions Made at Geneva Conference" in The Times of India, 23 May 1948

reforms in media economy that included regulating the mercantilist interests which dominated the running of the press at the time. In framing the problem in terms of 'freedom of information', A-INEC's leadership highlighted the need for complete 'emancipation of radio and sources of information from monopolistic control either of the government or private agencies.'[6]

Such assertions reflected the broad anti-colonial and socialist idealism in the nationalist movement could have served as a 'coordinating discourse' for policy reform. From a DI perspective, given the ideological and political proximity between activist journalists and groups like A-INEC and the Indian Federation of Working Journalists (IFWJ) which had close ties with the socialist wings of the Indian National Congress, this was a distinct possibility. Giving such ideas an institutional form were editors like SA Brelvi, a founding member of the A-INEC, who was also active in nationalist politics and had routinely courted arrest alongside the secular wing of the Congress party. On the other hand, groups like IFWJ were also led by self-professed Nehruvian and socialist editors like MC Rau, who brought in a distinct working-class approach to their activism on issues of press ownership and labour rights.

As the founding editor of the *National Herald* and its sister publication *Qaumi Awaaz*, Jawaharlal Nehru was not only a regular participant in A-INEC's meetings but also spoke as a direct stakeholder as a patron of the IFWJ. The institutional nature of their shared outlook however did not take hold of policy even after independence after when Nehru moved higher up on the political stage. With a change in ideology, breaking away from the early promise of anti-colonial and socialist ideas, the demands for emancipation and freedom of information

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[6] 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

gradually gave way to polarisation on other issues as the Congress' commitment to fighting the 'vested interests' gave way to a different set of ideas attached to mass politics of cultural rather than socialism.

The early vision for reform was eventually lost in the fog of India's Partition. Speaking at the first major post-War annual gathering of the Editors' Conference in 1946, Nehru had publicly endorsed demands for reforms in ownership of the press, his view inflected by his belief in 'socialistic development' of India's economy and encompassed possibilities to breaking up the 'business combines' that held an iron grip over the Indian press.[7] However in the legislature, where these ideas could have led to a broader debate, the dark clouds of Partition cast a deep shadow and restricted the focus on themes of law and order while marginalising ideals proposed by media activists in the run-up to independence.

While there were other more political economic reasons why the demands for 'socialistic' pattern of development weakened so swiftly, the failure to limit territorial Partition hurt the demands for press reform most directly. So much so that by the time the time India's constitutional debates concluded in a republican settlement, the legislative discourse became so passive to be effective any longer. The fact that the Partition quite literally changed the composition of the press laws review committee meant that it further weakened the hand of those demanding a more substantial deliberation.[8] The two A-INEC members who stayed on the committee after the Partition wrote detailed 'dissent notes' which remained buried in the report's appendix pages never to be read let alone discussed in the Parliament or beyond.[9]

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[7] Quote from the fifth annual session of A-INEC addressed by Nehru. "Danger of Big Press Combines: Pundit Nehru's Warning" in The Times of India, 18 February 1946

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

[9] Comments submitted by S. A. Brelvi made specific references to the misuse the Press and Registration of Books Act 1867, which required every newspaper and publication to register with the government agencies. These he argued, like the penal

Media policy after constitutional settlement: A weak coordinating discourse

With the withering relationship with Congress leadership, the already weak policy coordination resulted in a further lack of debate, either through the legislature or in the course of the constitutional settlement. While it endorsed the framework of self-regulation in principle, the media system that came into being proved to be dominated by personalities and pronouncements rather than policy coordination between journalists, editors, proprietors and the various strands of the nationalist movement. In the absence of clear ideas from its leadership, the Congress' government's commitment to reform also weakened further particularly with their misgivings about the role the press in promoting what they saw as instances of continuing '*Hindutva* propaganda' and 'class hatred' spread by communists in Indian territory (Chandrachud 2017: 80)

However, it was also their continuing reliance on coercive institutions of the state which weakened the potential to revive a progressive discourse of policy. For instance, after the World War ended, the Ministry of Information, a primary source of imperial propaganda and censorship during the conflict, was not only retained as an instrument of executive power but used an easy substitute for deliberative policymaking. After independence, the office added broadcasting to its mandate (becoming of the Ministry for Information and Broadcasting, MI&B from now on) and saw the ascendance of staunch nationalist figures in the Congress party.

Soon after independence, Congress leader VB Patel took over as the first I&B minister and combined, what Jeffrey (2006: 215) has called, a kind of 'Gandhian asceticism' with an

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law codes, were quite prone to political misuse. They were the only members on the committee who laws by the British authorities against those demanding political reforms. Press Laws Enquiry (Ganga Nath) Committee 1947-48: Report. Delhi, 1948, British Library, India Officer Records: IOR/V/26/960/2

impulse to censor the press as a legitimate means of statecraft.[10] In contrast to Nehru who had courted both the anti-colonial nationalist A-INEC and the more socialist varieties represented in the Indian Federation of Working Journalists (IFWJ), Patel relied on inter-personal relations for achieving positive reviews for his office, which he held alongside the Ministry of Home Affairs until his death in 1950. During his tenure, Patel cultivated sections of the press including the Standing Committee of A-INEC while shunning the socialist working journalists' unions like the IFWJ. Rather than internal coordination, he relied on loud pronouncements about the need for the press to follow in the footsteps of his government. 'The priorities of the press were no different from those of the political leadership' Patel argued in one such meeting with A-INEC, suggesting that any popular government would necessarily be more accountable to the people as he justified his role at the helm of the propaganda machinery of the Raj.[11]

At one level, India's media system under Patel does resemble the 'sovereignty-centric paradigm' argued by Cuilenburg and Mcquail (2003), but in post-colonial India the MI&B hardly remained aloof on matters of politics so as to be considered simply an instrument of national security. Neither was it simply a case of 'political parallelism' (Hallin and Mancini 2004), as few English newspaper dailies aligned with any of the leading political parties but simply accepted constraints and self-censorship as part of the bargain to remain untouched by any structural reforms. Also, the Hindu nationalist sympathisers within Congress leadership, who took over the office of MI&B after Patel (Jeffrey 2009), used the 'advertising policy' and quota system in allocating newsprint to weaken the discourse of reforms that led to further marginalisation of socialist themes in the politics of press and mass media policy.

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[10] It was Patel's decision to shut down commercial and private radio broadcasting. In the course of his brief tenure, the foundations of the participation of the press in state building grew considerably. For a first-hand account, see Iyengar (2001)

[11] Patel met the Standing Committee of AINEC frequently around the independence period as home minister. Quote from his meeting in Delhi. "Sardar Patel's Call for Co-operation: A-INEC. Meets in Delhi" in The Times of India, 10 September 1948

This weakness in coordination was also evident in A-INEC's declining autonomy once its President was appointed as an MP for the Congress in early 1950s. On the other hand, the more progressive unions like IFWJ remained acquiescent even though the government targeted major Left wing publications alongside limiting Hindu right-wing propaganda. [12] The only challenge came from the courts, which as Patel put to Nehru, following the reversal of a ban on a *Hindutva* press outlet, could 'knock the bottom out of the press regulation.'[13] From a discursive institutionalist perspective, such anxieties and active co-option of leading journalist unions shows how the Congress leadership's reliance on personality and easy enticements rather than deliberation and public policy.

An archetypical moment of this turn occurred towards personality rather than deliberation occurred in June 1951, in the course of the new amendments to Article 19 which sought to rebalance demands for 'freedom of speech and expression' within the context of ever more polarising debates in the courts (Chadrachud 2017). While the legal context is well known, its impact on the policy discourse of self-regulation beyond the legal context has not received enough attention. In fact even as Nehru, aided by his able Law minister BR Ambedkar, sought to hammer out changes in the constitution, a plenary of A-INEC met to deliberate on the policy impact of such a change.

The coming together of almost every major newspaper in Delhi to deliberate this change in the constitutional framework for press freedoms presented a major opportunity to revive the

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[12] Soon after independence, several provincial level Congress governments passed Public Safety or Public Order Acts and each of these included provisions allowing for lawful censorship. In two high-profile cases involving a Communist journal (*Crossroads*) and a Hindutva mouthpiece (*The Organizer*) the regional courts declared the bans under these laws unconstitutional The Communist magazine was banned under the Madras Maintenance of Public Order Act, 1949, while the Organizer was banned East Punjab Public Safety Act, 1949.

[13] 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?"

progressive ideals of IFWJ and A-INEC. Among those who participated in these deliberations, which in many ways set the tone for the First Press Commission of India that followed soon afterwards in 1952, were editors and journalists from *The Hindu*, *The Times of India*, *Hindustan Times* and many smaller and less influential regional language and independent dailies. In resolving against the amendment's lack of concern with press freedoms, the union passed a unanimous decision to stop publishing their papers as a sign of protest.[14] But again, the personal patronage extended by the Congress proved decisive; Nehru was widely admired for his stand against communal polarisation and most editors eventually fell in line with his ideas. In the end, in spite of a unanimous call for a *hartal* (a day-long strike) against the first amendment, just a handful of independent newspapers came out in protest.[15]

Fear of the 'foreign' or the art of not debating self-regulation

Even as they succeeded temporarily in resisting commual and hate propaganda, the institutional capacity to coordinate a stable policy came to rely on personality rather than deliberations. From a DI perspective, the gradual fading away of professional unions was central feature of the constitutional moment, and it gradually led to a gradual closing off of policy from public intervention. In its place, coercive institutions like the Ministry of I&B took charge of framing policy media in terms that resemble a softer variety of cultural nationalism and ideas that focus on defining India's culture from 'foreign' influence. It is important to isolate the way in which these notions slipped into the institutional fabric of policy, and gave rise to a 'communicative discourse' (Schmidt 2008) of competitive cultural nationalism rather than socialist ideals of media policy.

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[14] Rau, M. C. "The Press After Nehru" in <u>The Economic Weekly</u>, Special Number, June 1964

[15] Nair, Kusum, "Press 'Hartal' That Did Not Come Off" in <u>The Times of India</u>, 22 July 1951

The process can again be traced back to the early 1950s, when the formal institutions of press self-regulation could have given rise to a 'corporatist' media system that has been shown to exist in countries in norther Europe which have a high degree of political partisanship co-existing together with institutionalised norms of self-regulation the press. An early moment to consider is the time when Nehru appointed cross party leaders alongside Congress politicians like Acharya Kriplani and Zakir Hussein to the first Press Commission of India which was constituted to address all outstanding issues relating to the press in India. Formed at the insistence of MC Rau of IFWJ, the ideal of commission was in fact drawn from similar institutions that have long had a presence in Scandanvian media systems.[16]

The Commission's mandate included socialist ideas of containing the growing powers of the proprietors' interests and lobbies known as the 'jute press', as the mercantilist conglomerate-owned newspapers were referred at the time (Parthasarathi 2014). In its mandate was a policy framework, including an overhaul of advertising policy of the state and institutionalising a Page-Price Schedule to reform the allocation of newsprint in consonance with the size (rather than circulation) of newspapers.[17] But the nationalist discourse, that relied on personality and inter-personal relationships, the framework was hardly important and eventually the commission failed to achieve any of its major recommendations, with the exception of setting a Press Council of India which was only constiuted more than a decade later in the mid-1960s.

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[16] In fact, the suggestion to establish a 'Press Council of India' was directly inspired by the Swedish model which also discussed in the course of the Commission. For details, see Report of the Press Commission, History of Indian Journalism, British Library, I.S.408/8

[17] After the commission submitted its report in 1952, some papers threatened legal action against the schedule, but following brief negotiations with Nehru, such policy programmes were discarded as promptly as they were proposed. M. C. Rau, a member representing the "working journalists", acknowledged that he had to personally convince the Prime Minister to push for its implementation since. For details, see Report of the Press Commission, History of Indian Journalism, British Library, I.S.408/8

In discursive institutional terms, the press commission marked yet another lost opportunity. As Rau of IFWJ argued, the deliberations remained largely superficial and 'no one but the working journalists' federations wanted the (price-page) schedule.'[18] Indicating that All-India groups like the Editors' Conference and similar institutions aimed at press reform had lost their reformist zeal. Unsurprisignly, the once famed IFWJ drifted towards divergent ideological poles, and in 1974 eventually vanished altogether, with one prominent faction merging with the Communist bloc and another with the Congress. But as the more socialist leaning unions withdrew from the public arena, the subsequent era saw further weakening of policy discourse and in 1954, the Government of India in fact formally reconstituted the Registrar of Newspapers in India (RNI) that was to oversee the implementation of the Press and Registration of Books Act which the A-INEC had once campaigned to repeal.

Another move that followed a turn towards mass communication rather than policy coordination saw the government impose a ban on licensing any 'foreign' publication in India's press. This move shut out all but one international publication (the American fortnightly magazine *Reader's Digest* that had a licensed printing press in India before the date) as the only foreign-owned publication to come out of India for the next four decades until the ban was partially lifted in the late 1990s. More significantly, it gave more legitimacy to the communicative discourse of banning 'foreign' media while marginalising the discourse of policy that had weakened substantially since the time of the 1st amendment and lost its credence with every new crisis that bedevilled the press in the following years.

Another defining moment in the ascendance of such a turn towards soft 'cultural nationalism' within the legislative discourse came during a debate soon after the first major war effort

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[18] 18 Rau, M. C. "The Press After Nehru" in <u>The Economic Weekly</u>, Special Number, June 1964

against China in 1962. In response to the Chinese propaganda, the permission for setting up 'foreign' radio transmitters, with aid from American information services, was approved by the Prime Minister, but these proposals were withdrawn after the debate took a cultural nationalist turn which provided the pretext for a backlash against 'foreign' intrusion in Indian territory.[19] These debates were also publicised widely and provided a communicative discourse (Schmidt 2008) with bans on foreign publications side-lining policy deliberations regarding diversity and further weakening demands for reforms particularly in the context of mass media.

In 1963, the year Indira Gandhi was appointed the Minister for Information and Broadcasting, following a brief and almost muted debate within the Parliament, another set of amendments were introduced into the constitution. It included amendments to the Article 19 which guaranteed freedom of expression to its citizens. These changes explicitly added 'the sovereignty and integrity of India' into the text of the Constitution and played to the communicative discourse of promoting cultural nationalist sentiment against 'foreign' influence within India.[20] While these were largely political level ideas, but in the context of media policy they set the stage of a harder version of cultural nationalism and communalism espoused by the *Hindutva* leadership that was still a marginal force at the time.

The change had a discursive aspect too. On the one hand deliberative institutions, and ideas of self-regulation were finding it hard to thrive in the absence of public intellectuals and independent media associations who could stand up to the political elites. On the other, the routine ban on foreign publications institutionalised an unwritten and unlegislated

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[19] Nehru had initially argued that the All India Radio had partnered with the Voice of America to counter the "vicious and venomous propaganda against the Government of India by Chinese broadcasting services directed in various languages to bordering areas of India" but in the face to stiff resistance, with the opposition accusing him of compromising India's "national sovereignty", he was eventually forced to back out. "Prime Minister's Statement in Lok Sabha on AIR-VOA Agreement", Question Hour, Lok Sabha, 14 August 1963

[20] Article 19, Constitution of India Amendment Act, 1963

'communicative discourse' (Schmidt 2008) of media policy, which further corroded public deliberations around reforms. If in the context for popular culture and cinema there was already a distinct 'performative' aspect to policy (Kaur and Mazzarella 2009) in the context of the press the reliance on mass communicative discourse of 'foreign' cultural influence found a more institutional role in media policy, particularly in the course of the Emergency. Through this period policy did not rely as much on coercive interventions, although those were used extensively, but rather the capitulation of large sections to the press to the fear and communal polarisation.[21]

This change was already evident in the follow up on the recommendations of the First Press Commission to set up the Press Council of India that was brought back into the debates in the mid-1960s.[22] In the early 1960s, the decision to establish the Council was part of the conciliatory approach adopted by the Congress leadership following the amendment to Article 19 of the Constitution. It was however only in 1970s, a decade that saw a rising political entropy in Indian democracy and growing assertions of polarising identity and communal politics (Kothari 1966, Palshikar 2017), that the Council became a subject of partisan interests and used as an instrument for mass communicative debates around foreign media rather than a platform for policy coordination.

The turn towards cultural nationalism came on the back of this weakness in the discourse of self-regulation and the institutional debate that never took up the problem of media policy head on. When the Parliament began to review existing policies cocerning the press as well as in the

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[21] Besides editor of India's largest selling paper at the time, The Times of India Girilal Jain, several newspapers, including Left leaning editors like 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

[22] The recommendation for creating the Press Council of India was drawn from the experience of several other countries, particularly the Scandinavian countries like Sweden. For official text, see Report of the Press Commission, History of Indian Journalism, British Library, I.S.408/8

context of broadcasting, in 1966, it hastily passed the Press Council of India Act without adequate debate on the problem of autonomy. The Press Council became a mere shadow of what its most vocal advocates had wanted, and unlike the Swedish model which inspired such a move in the first place, rather than allowing only media professionals and journalists, the council included senior MPs 'appointed' directly, often at at the recommendation of the Ministry of I&B. Instead of real powers, the council was to be a 'court of honour' (hence without legal or statutory role) and this mandate was only revised in 1970 when powers to 'admonish and warn' journalists were added to its constitution.[23]

Crucially, in the Parliament, only a small group of MPs, mostly from the regional and socialist groups opposed such laws, but outside it, once progressive groups like the IFWJ refused to come on board and even called for its abolition in the course of the Emergency.[24] The organised Left's lack of engagement, or plain disinterest, and the implications this had for media policy was equally pronounced in the context of electronic mass media and public service broadcasting. This was partly due to the abysmal numbers of television receivers at the time, with fewer than 1 in 100 people having access in the 1960s. Even then the more right-wing nationalist parties had started to debate question of dividing programming 'on-air' proportionally as per the seats that each group held in the Parliament. But Communist party MPs did not introduce that address the problems of 'settled policy' which had been put in place under Patel's watch.[25]

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[23] Moreover, the Press Council was to work "(a) to help newspapers & news agencies to maintain their independence; (b) to build up a code of conduct for newspapers and news agencies and journalists in accordance with high professional standards; (c) to ensure on the part of newspapers and news agencies and journalists the maintenance of high standards of public taste and foster a due sense of both the right and responsibilities of citizenship; (d) to encourage the growth of a sense of responsibility and public service among all those engaged in the profession of journalism; (e) to keep under review any development likely to restrict the supply and dissemination of news of public interest. Press Council of India Act, 1965

[24] The IFWJ formally withdrew from the Press Council in 1970 and in 1975, following the declaration of the Emergency, actually welcomed the decision to scrap the Council. Its representative argued that the original council was "never able to deliver the goods as envisioned by the (1st) Press Commission. See "IFWJ for new body to replace press council" in Times of India, 12th Dec 1975

Their lack of interest was also evident in the very nature of radio programming which had such a high degree of elitism, as Jeffrey (2006: 210) puts it 'John Reith's alleged 'high browism' at the BBC paled in comparison.' Moreover, following the episode involving American transmitters, the question of 'foreign' cultural influence on communication took control politics of autonomy, with strict licensing of 'community radio' and amateur 'ham' signalling claiming its first victims at the time (I will discuss it in the next chapter). The communicative dimensions of electronic media related policy, came to be inflected with competitive nationalisms and the trend accelerated under the turn towards indigenous electronic goods production which picked pace in the 1960s (Sridharan 1996).

In 1964, the Union government agreed to set up a committee for determining the mass media policy headed by the retired Justice AK Chanda but again rather than debate on its substantial findings, the political discourse of media policy was dominated by themes of cultural nationalism rather than autonomy for public service media. [26] Apart from drawing an overview of the dismal broadcasting infrastructure since independence, the five-volume report submitted to the Parliament in 1966, framed the problem of self-regulation and autonomy in terms that underscored the overbearing role of the state and its weak institutions of public broadcasting. But the lack of commercial investment, and disinterest from the opposition and the Left parties in particular, put an end to public deliberations as soon as they started. In 1967, Prime Minister Indira Gandhi personally cut short the legislative review on Chanda Committee report, arguing that 'time was not right' for considering such a sensitive matter.[27]

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[25] The "settled policy" was reiterated again by the succeeding Minister of Information and Broadcasting Keskar on the basis that it did not serve India's cultural value. "No Sponsored Broadcasting in Country: Govt. Settled Policy" in The Times of India, 25 August 1957

[26] Report, Committee on *Broadcasting* and Information Media, Lok Sabha Secretariat, Parliament of India, 1964

[27] Ibid.

The turn towards cultural nationalist sensitivities moved aside concerns of communal hate speech and '*Hindutva* propaganda' that had so bothered the Nehruvian leadership. In its place, a less secular framework of restricting 'foreign' influence became part of policy discourse, including in the mandate of the Press Council of India which 'to keep under review the cases of assistance received by any news agency in India from any foreign source.'[28] The lack of deliberations compounded by the Machiavellian attempts by the Prime Minister to turn the debate into yet another platform for personality based politics while at the same time ignoring substantial problems of self-regulation. She institutionalised this discourse through another amendment in the Press Council Act in 1970 which barred it from hearing matter pertaining to disputes between newspaper owners and editors in Indian press.[29]

This effort threatened the already weak coordinating role of the Press Council of India and its policy discourse. This became evident in a political debate that followed in the course of a legal challenge to the proprietor of the *Hindustan Times* KK Birla, a business scion of a prominent media conglomerate and a political advisor to Prime Minister India Gandhi, who was charged of dismissing the editor of his newspaper on partisan grounds. Rather than emphasising the framework of self-regulation, and engage in public deliberations, Birla and his political backers relied on what Schmidt (2008) calls the 'foregrounding capacity' and challenged the *locus standi* of the council to intervene on the subject at all. Rather than focus on problems of self-regulation and policy reform, the legal case focussed on personalities with KK Birla case becoming a pro- and anti- Indira Gandhi contest. [30]

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[28] Press Council of India Act, 1965

[29] *For details see,* K. K. Birla vs. The Press Council of India, And Others., 22 September 1975, Supreme Court of India

[30] K. K. Birla vs. The Press Council of India, And Others., 22 September 1975, Supreme Court of India

In what could have been a case to revive policy discourse around the functioning of the press and challenges in self-regulation, instead became a narrow contest that provided more heat than light. The mass politicisation of press policy eventually led to the complete dissolution of Press Council and in December 1975, at the peak of the Emergency regime initiated by Indira Gandhi in the same year. In dissolving the council and publicly repealing the Press Council Act Mrs Gandhi arguing that the '(Council) was not able to carry out its functions to achieve the objectives for which the Council was established.' These objectives had never addressed concerns of communal and hateful propaganda nor were issues of ownership allowed to be debated. This went hand in hand with the lack of concern with policy among Left leaning groups including the Indian Federation of Working Journalists which formally merged with the communist bloc just before the Emergency and publicly supported the decision by the Prime Minister.

Cultural nationalism and media policy after the Emergency

By the time the Emergency was lifted in March 1977, coordinating discourse of self-regulation and allied bodies like the Press Council of India gave way to a discourse that shut out its most vociferous critics. Rather than focus on the legal dimensions and allied statutory and organisations reform, one can see how debates that took place in the context of self-regulation in the press as well as in the related context of public service broadcasting became narrowly focussed on cultural nationalist currents sweeping through India's democracy. This mass politics of cultural nationalism now framed issues in media and press policy which moved away from moderate nationalist ideals advanced in the early years of the republic. It was within the framework of massification that further marginalised concerns of secular nationalism as well as lack of safeguards against a creeping *Hindutva* communalisation of the media system.

Even someone like Patel, who was seen as representing a conservative streak within the grand old party, had maintained a 'settled policy' for limiting commercial advertisement in press and mass media largely to restrict such trends for settling in. However, in the course of the Emergency, declared in June 1975, the policy discourse narrowed further towards a more cultural nationalist paradigm, which provided a formal basis for Hindu nationalism to negotiate a consensus in favour of commercial interests while the Left and communist parties became less significant as they anyways derided this as another instance of bourgeoisie commercialisation. From a discursive institutional perspective however, what the Emergency did was not so much weaken the coordinating discourse but also open policy discourse to more virulent forms of cultural nationalism and allied it with *Hindutva* worldview. As Farmer (2005) has argued, the period had allowed the Indian National Congress (INC) to televise its conception of the Indian nation but in the 1980s as national politics swung towards a 'crisis of governability' (Kohli 1989) control over the press and mass media becoming a source and a site for communally polarising India's democratic public sphere.

The opening came soon after the Emergency ended, when a flurry of debates relating to the press and mass media gained more political salience, and institutions such as the Press Council were reconstituted under the newly elected coalition of Janata Party. This process however saw further politicisation along nationalist lines, but this time not on the terms of the Congress but its ideational antagonists in the domain of cultural nationalism. In the course of the nineteen-month Emergency period, prominent journalists had been jailed under the Maintenance of Internal Security Act that provided executive powers to curtail and censor any criticism of the Prime Minister and her government's policies.[31] However, instead of giving rise to reformist

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[31] Fakhruddin Ali Ahmed, then President of India, declared the state of Emergency on 26 June 1975 under Article 352 (1) of the Constitution, which marked a complete crisis of human and civil rights in the country until it was lifted 21 months later.

movement, as had been the case with the rise of unions like A-INEC in the post-War era, the post-Emergency debates changed the institutional fabric of media policy dramatically.

As Guha Thakurta (2009: 14) has argued, since then the press in India came to 'deploy more subtle forms of censorship—those driven by the market, or by those in power who can bribe journalists with lavish international junkets.' Political endorsement for such transformation came primarily in the context of revolution in the vernacular newspaper readership that brought regional media conglomerates within the ambit of the existing policy framework. As Jeffrey (2009) shows, this was a phase when vernacular press grew exponentially, with readership in non-English language press growing fourfold from 9.3 million to over 40 million in 1997. These changes, Jeffrey (ibid) argues were driven by the availability of computer-based offset printing, which were ably put to use by a new print capitalist class of 'traders turned editors' who began to dominate vernacular media markets.

However, when it came to policy and problems of self-regulation, the rise of 'traders turned editors' went hand in hand with a weakening of statutory institutions like the Press Council of India. A change that mapped directly on the changing political economy in Indian at the time. This was evident soon after India Gandhi's defeat in the general elections in 1977 at the hands of the Janata Party led coalition. Rather than reinvigorate public policy discourse, the Janata government doubled down on cultural nationalism to consolidate power through coercive institutions like the Ministry of Information and Broadcasting. Instead of abolishing the notorious office, as many dissenting voices during the Emergency had called for, [32] the Janata government refashioned it in its own image and even legitimised the Hindu nationalist ideology which took hold of the policy discourse for the first time.

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[32] Prominent critics of the Emergency like Kuldeep Nayar, a journalist, were jailed under the Maintenance of Internal Security Act, called for abolishing the office altogether but in spite of assurances the Ministry for Information and Broadcasting was retained and the portfolio awarded to the ideological wing of the coalition.

In a decisive move, the Bharatiya Jana Sangha, the political fountainhead of Hindu nationalism at the time, appointed LK Advani as the Minister for Information and Broadcasting in 1977. With the ascendance of Advani, a former journalist with the *Organiser*, the same publication that was targeted under Nehru's secular amendments to the constitution, Hindu nationalists reworked the state institutions to further narrow down the scope of policy into an instrument of mass polarisation rather than coordinating with the press and other reformist groups. Like his predecessor, perhaps even more than her, Advani also focused on cultivating commercial interests and negotiated a range of new policy measures which included revising his government's advertising policies by adding a dose of cultural nationalism to it.

While reviewing the policy to commercialise newsprint distribution, a long standing instrument besides advertising revenues, Advani now related themes of press to cinema censorship and in particular raised concerns relating to 'obscene or vulgar' content being circulated across the various mass media system.[33] More crucially, even in reconsituting institutions like the Press Council of India, Advani relied on the playbook used by his predecessors and continued the practice of appointing the head of the Council on the 'advice' of the Parliament, while keeping his own position as the Minister for I&B to the board's membership. Besides further commercialising policy goals, these ideological manoeuvres turned the policy debate into one around cultural and communal identity related themes rather than revive the activism of independent press unions and media associations.[34]

At the discursive institutional level, the most blatant case of coordination being superseded by a communicative discourse, was the case of the Second Press Commission of India that

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[33] "Govt. to announce advertisement policy soon: Advani" in The Times of India, 4 October 1977

[34] 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

institutionalised themes of cultural nationalism into policy. Even its constitution reflected the rising forces of communal polarisation and competitive nationalism where ideas were only secondary to the spectacle and ideological pomp. Constituted under the post-Emergency Janata government, in May 1978, the Second Press Commission was aimed to revive media and press autonomy but instead it became a subject of propaganda and communal polarisation. The role of Advani as the Minister for Information and Broadcasting LK Advani ensured that that not a single reformist MP of the Congress was included in the group leading to accusations that the Janata government was selecting only those candidates that fit the *Hindutva* politics of vendetta.[35]

Rather than selecting a cross-section of parties, as was the case with the First Press Commission, the Janata government did not include any opposition MP in the Commission, leaving the role to 'political appointees.' The only editor included was Arun Shourie, a critic of the Emergency who was also sympathetic to the Hindu nationalist cause.[36] Even before the Commission could complete its work, the Janata government went out of power in 1979, and was followed by the resignation of all members in the Commission. The deliberations in each instance, before and after its reconstitution were overwhelmed by personalities and eventually paved way for more communal polarisation that suits the *Hindutva* ideology.

Changing its constitution midway its course, Indira Gandhi then reconstituted the entire commission on 1980. Not only did this lead to a change in the terms of reference but the

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[35] The demand for a press commission had been put forward by several groups including the workers' unions as well as associations representing "small and medium scale" newspapers and regional associations like the Indian Language Newspapers Association (INLA) that felt the Press Council's limited mandate did not address their grievances. "ILNA plea for second press commission" in The Times of India, 24 July 1971

[36] Arun Shourie went onto join the party in the 1990s, and wrote public commentary in favour of *Hindutva* communal agenda, particularly on the question of minority rights. See 'Ayodhya: Muslim Argument Examined', available here: http://arunshourie.bharatvani.org/articles/19921001.htm

overhaul also made it a subject of public spectacle out of serious issues which included the growing communalisation of the press and its role in defending the secular fabric of the society. When it submitted its final report in 1981, no serious debate followed either within the Parliament or beyond it. As the leading policy and political economy journal the *Economic and Political Weekly*, while comparing the two Press Commissions in India, commented at the time: 'Most recommendations of the First Commission remained unimplemented, and the second Commission has rendered those unimplemented recommendations obsolete.'[37]

This shift towards concerns of commercial and *Hindutva* framework was all the more ironic since the threat of media concentration was much higher than was the case at the time of India's independence. As (Parthasarathi 2014: 83) has argued, by the 1980s 'risk to diversity (in the press) posed was not only numerically more than that observed by the First Press Commission, but far greater than the oft-quoted scenario in the United States around that time.' This point however found no mention in the deliberations that followed the submission of the report. The cultural nationalist variety of print capitalism only found its voice in Delhi through a discourse of mass polarisation, while professional media unions like A-INEC lost all credibility as well as most of their membership.

The impact of expansion of commercial interests in the press and ascendance of *Hindutva* ideology left most professional media unions in total disarray. From its 'All-India' appeal and cross-party agenda, A-INEC eventually reconstituted its core committee as the Bombay Union of Journalists (BUJ) in 1984. Over the three decades since independence, this stellar professional media association that represented an alternative pan-Indian rather than cultural nationalist vision had lost its policy impact, to the extent that in 1980s Indira Gandhi could

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[37] "Another Press Commission" in Economic and Political Weekly, 27 May 1978

parade its leadership in a public in a show of loyalty towards her ideas. This was a reflection on the decline of public policy at large; a reality evident to all, including A-INEC's national leadership that acknowledged is as a 'fact of life.'[38]

Even as English language national dailies lost the mantle in terms of mass readership to vernacular press, the more problematic side of the emerging print capitalism in India was that it brought with it more recognition for Hindu nationalism as a policy discourse. The 1980s saw the emergence of several insurgencies, and this further weakened policy discourse around self-regulation and linked it to themes of territorial control and counter insurgency particularly in the context of Jammu and Kashmir where the Union government used coercion as well as advertising revenue to influence favourable coverage (Aggarwal 1989). This complimented the already weak coordinating discourse and policy was now overshadowed by a growing practice of what Konig (2016) has identified a form of 'self-censorship' by the media and press in contemporary India.

The outcome of the Second Press Commission reflected a weakening of the coordinating capacity and discourse of self-regulation, as both the Congress and its Hindu nationalist opposition turned it into an exercise of mass polarisation while ignoring substantial problems of diversity, plurality and reforms of laws that had remained unchanged since independence. This meant that no action was taken on the growing conglomeration both at the national and more seriously at the regional level where party political clientelism became rampant. Ironically, the editor of the largest circulating English daily The Times of India also withdrew his support from the commission, admitting that 'everyone knew what happened during

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[38] Nihal Singh, S. "A Free Press" in India Today, 30 September 1980

Emergency' but there was no point speaking out given the cost.[39] In an indication of how nationalism rather than ideas of autonomy took hold of the agenda, an eminent novelist and member of the Second Press Commission known for her open opposition to communalism, actually refused to be part of it in any way whatsoever.[40]

Satellite broadcasting and the communicative discourse of Hindu nationalism

Television is well recognised as a more important medium for propaganda in comparison the 'space' biased media of print (Innis 1951). In India, the role of cultural politics of nationalism, is unsurprisingly even more pronounced in the context of electronic mass media. Its expansion in the post-Emergency era provided yet another crucial means through which Hindu nationalism became a powerful force in media policy; its ability to combine rapid technological shifts into a discourse of self-regulation that simultaneously reduced problems into themes of religious identity and turned demands for reforms into a theatre of mass polarisation. In analysing the change, we need to consider two major programmatic aspects of electronic media policy that emerged in the post-Emergency era and in each instance the policy framework attuned itself with Hindu nationalist ideas while further marginalising policy discourse.

The first set of policy debates concerned the question of public service role of television that began in the 1960s but gained momentum only in late 1970s, while the second one concerns to formal institutions of self-regulation in the context of commercial programming which competed and eventually overshadowed newsprint capitalism in the 1990s. We can begin first with public service related debates since it started even before the newspaper and mass media

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[39] 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

[40] Amrita Pritam, a supporter of secular nationalism, decried the brazen interference from the government, she resigned in 1981. Report of the Second Press Commission, available in SP Aggarwal ed., "Committee and Commissions in India – 1980: Volume 18, Part A", Concept Publishing Company, New Delhi

revolution in the post-Emergency era. As in many other countries, early demands for broadcasting reforms came alongside those for welfare state activism which appealed to citizens in many parts of the post-War Europe (Cuilenburg and McQuail 2003).

However, rather than deliberate the findings of the review of broadcast policies presented in the Justice Chanda committee report and objectively evaluate the role that public service broadcasting could play in India's democracy, the problem was framed in cultural nationalist terms. With the ascendance of Indira Gandhi as the Minister for Information and Broadcasting Minister, in 1963, a new communicative discourse gained prominence over question of policy and turned public service into a domain for mass identity politics rather than concerns with the rights of the citizens. This shift can be related to the advances in satellite technology and how it drew policy elites into international media policy, leading to further centralisation of policy-making under Indira Gandhi's tenure (dicussed further in the next chapter).

Summarising the role that Indira Gandhi played in shaping the contours of public service broadcasting, and her use of mass media, Kumar (2000) quotes a wit from the era who is supposed to have argued that if 'Jawaharlal Nehru was a visionary, his daughter Indira Gandhi was a televisionary.' This shift indicates a qualitative change in the discourse of policy, which in DI terms would mean a shift away from coordination towards populist mass communication. A coordinated response could have led to public service television becoming a means for social progress, as envisioned by pioneering scientists behind the SITE project which was part of the developmental commitment of the state which wanted to use broadcasting to relate policy directly with the concerns of agrarian masses.

Kumar (2000) argues that it projects like SITE were an attempt 'to imagine into existence a uniquely Indian personality for television' but got caught up in a contradictory 'secular-

technocratic' binary that marred the developementalist state in post-colonial India. However, failure of such projects was not without its own politics and implications for media policy since it could have initiated new deliberations among political leaders, scientists, media producers as well as the citizens for whom the project was first developed. From a discursive policy perspective, the reasons were a decisive shift towards a more populist mode by those in power, which in turn made massification rather than deliberation as the framework for developing public service broadcasting in India.

Gradually, this turn away from a coordinating discourse, and failure of developmental efforts, gave way to more and more reliance on cultural nationalist ideas that took ever more interest in commercialising news media. The new ideal of mass communications, as argued by media theorists of mass media in the West (Horkheimer and Adorno 2002 [1944]) reduced people into passive audiences and subjects rather than citizens in democracy. The Hindu nationalist interest stepped into this scenario and its political leadership seized the momentum from Indira Gandhi, taking over the communicative discourse that using television into means for advancing virulent communal propaganda to directly reach the masses.

There was a method to their seeming madness, and a review of their ability to engage with official agencies is particularly important to underscore this point. As discussed earlier, an ideologue for political *Hindutva* LK Advani took charge of the Ministry of I&B in 1977 and over the two years he helmed it, it was turned into an instrument of mass polarisation. This change aligned with the changing structures of mass media, which expanded rapidly across urban India, even as radio and efforts to reach to rural communities were all but destroyed. As Jeffrey (2009) has argued, in spite of the fact that in the 1970s India had 'an illiteracy rate of more than 80 percent at the time, and a daily newspaper penetration of no more than 7

newspapers per 1000 people' (ibid: 47) radio was never considered a relevant media for public service broadcasting thereafter.

Moreover, the only change that Hindu nationalism fully endorsed was the role of commercial interests in public service television which was opened to commercial sponsorship for the first time *during* the Emergency. It was Indira Gandhi's decision to carve out a separate 'national network' Doordarshan from the Akashvani (All India Radio) in the course of the Emergency in 1975 that underscored the turn towards cultural nationalist ideals which saw public service function focus ever more in commercial programming while reducing the emphasis on broadcast radio which lost out in the commercial race. In 1978, there were 17.4 million radio sets in the country while television sets numbered in a few hundred in major cities, with less than 1000 sets in New Delhi. But in the subsequent decade, it was television, especially colour version that became the subject of public service policy while radio continued to suffer rapid decline.

In 1978, Janata government had agreed to appoint a new Working Group on Public Broadcasting that promised to revive a broader debate on the issue.[41] From a discursive institutional perspective, the post-Emergency period proved to be a critical junctur (Schmidt 2002) which revived a debate on the Chanda Committee report and more broadly on the question of autonomy. However, in the subsequent debates, including in setting the mandate of Verghese-led Working Group, the Hindu nationalist ideologues explicitly stated that the review was to be focus on 'mass media' rather than questions of policy.

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[41] Verghese was the also the editor of Hindustan Times who had been at the forefront of the debate on Press Council and had later gone on to fight an election against the Congress Party as an independent candidate in the 1977 general elections. Source is an in-depth interview with Verghese conducted by the author in Delhi.

Led by the veteran editor BG Verghese who had once been a votary of Nehruvian ideals, the working group could have addressed not only the administrative, financial and legal aspects of public service but added public service to the coordinating discourse of media policy, given the fact that it had the endorsement of MPs across-party political lines. The group submitted its report to the Parliament in 1978, and proposed a revised framework that primed formal institutions, a trust called Akash Bharti. In recommending paradigm shift in policy, the Working Groups' final report proposed a decentralised non-commercial system with decision-making given 'to the regional and local level so that the organisation enjoys the advantages of quick decision-making, sensitivity to local problems, familiarity with local customs and taste, and close linkages with various governments and institutions.'[42]

To be sure, in their deliberations the committee never went as far as the progressive movements like A-INEC or brought in ideas that had existed at the time of independence. It's recommendations even included a possibility of union government intervening 'any matter which has a clear relation to national security, the preservation of public order, and other matters of grave public importance.'[43] However, in the end rather than move too far from the cultural nationalist consensus against 'foreign' influence or revising the framework of public service broadcasting, the report did not provoke a response from the socialist and Left parties. In the period from 1977 to 1982, licensing agencies restricted the growth of community radio stations, but 80% of the urban population and more than half of India's rural population was brought within the range of at least one state-run TV station (Page and Crawley 2001: 56).

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[42] Excerpts from "Major Recommendations" Working Group on Autonomy for Akashvani and Doordarshan constituted under the Chairmanship of B. G. Verghese, February, 1978

[43] Ibid.

Moreover, as Rajagopal (2011: 1003) has argued, in the aftermath of the Emergency mass media became 'central to the resulting redefinition of the political, multiplying in size and reach, and fashioning market-sensitive forms of address couched in the rhetoric of individual choice.' This turn towards commercial massification of media at the same time went hand in hand with the ascendance of cultural nationalism to the top rung of policy. Under the control of the Ministry of Information and Broadcasting, efforts to revive public service broadcasting fell short of reforms and even after the Congress regained power in the 1980s, it continued with strategy of countering cultural nationalism with more of it, rather than rejecting outright.

More crucially, competitve cultural nationalisms also left aside concerns raised by democratic Left parties as well as allied social movements which gradually turned away from electronic media, a trend reflected in the complete absence of engagement with television news particularly from the Dalit and movements against caste and communcal injustice. Dalit parties that arose to prominence in the 1980s (Palshikar 2017) shunned the commercialisd *Hindutva* of what one leader called the 'Manuwadi press' (press tha represents the ideas of Manu). As Loynd (2006) has shown this distancing from both public service debates as well as commercial news broadcasting is a remarkably stable feature of contemporary Indian television for over three decades.

Equally importantly, orthodox communist groups including many within the CPI (M) toed a line that only strengthened the Hindu right discourse of mass polarisation. Ignoring the policy implications of such assertions, CPI(M) leadership consistently joined in the communicative discourse with their loud dismissal of the 'hybrid mix of spirituality, portrayal of women as sex objects and crass consumerism' on air.[44] In discursive terms, rather than championing and

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[44] Ibid.

collaborating with social movements, orthodox Left groups, particularly those under a Stalinist leadership, made little effort to democratise television. Interestingly Kerala is the only state where communism became part of people's identity and here Left parties actively engaged in television related activism, using it as a medium for advocacy and reaching out to expatriate Malayali audiences in the oil-rich Gulf across the Arabian ocean.

Meanwhile in the Hindi heartland, right-wing claims to 'national programming' grew manifold and as Kumar (2000) argues, by the 1990s (Hindi language) 'national television' became 'the indispensable ideological cohort of nationalist visions.' The absence of a strong Left opposition in the politics of electronic media development is a significant feature that would be central to the analysis developed in later chapters. The return of new ideas, and not just ideology, both within and beyond the legislative arena that has provided a base for activism and contentions leading to policy change over time. In the post-Emergency years, however, it provided an opening for the Hindu right wing to consolidate its ideas in the policy agenda.

In the post-Emergency era, with the Janata party coalition falling in disarray, Minister for I&B Advani framed self-regulation in Hindu nationalist terms that argued that it to be something opposite of 'independence', a term was already turned into a communal slur within the context of insurgencies in Punjab and Kashmir. Even as they nominated a working group, the Janata leadership and the Ministry of I&B ensured that their recommendation for decentralisation was further watered down to fit its ideological framework. When the veteran editor leading the official review protested, Advani flatly rejected any possibility, telling Verghese that they had only been promised 'autonomy' but instead (the report) asked for 'independence'.[45]

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[45] Interview with Mr. B. G. Verghese, conducted in April 2014, New Delhi

In 1984, the Congress leadership responded with its own cultural nationalist ideas and aimed to revive a more inclusive 'Indian personality' as the primary framework rather than address structural and legal issues affecting the functioning of the press.[46] In practice however, this led to ever more polarising content being aired on screen, with themes of nationalism pushed into the mass media, often at the insistence of the *Hindutva* which the Congress leadership courted in bid to weaken the emerging political forces. [47] As argued by critical media theories, the massification of television in the 1980s and 1990s produced a 'split public' (Rajagopal 2001) where Hindu mythological programming divided the mass audiences from English-language elites and this division also had an impact of the discourse of policy, particularly in terms of the role of the commercialisation of the media system while grew rapidly in the subsequent years.

Globalisation and media system in the 1990s

As mentioned earlier, policies concerning media systems emerge from the interaction between private interests, institutions of self-regulation and political ideas that seek to inscribe their values in the functioning of the press. Some scholars tend to see the 1990s and rapid growth of newspapers and television channels in India as the emergence of a complex 'public sphere' (Mehta 2015), some within the ambit of print capitalism (Jeffrey 2009), while others through a more rose-tinted lens of globalisation (Athique 2012). Incidentally, Hallin and Mancini (2011) have steered clear of characterising India's media system in their analysis of the varieties of print capitalism beyond the West.

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[46] Excerpts from the P. C. Joshi Report in Chowla, N. L. Joshi Report: "India's Personality" On TV in <u>The Times of India</u>, 28 August 1985

[47] Indira Gandhi's son Rajiv Gandhi who followed her as Prime Minister personally initiated the broadcasting of Ramayana and Mahabharata on Indian television. Several accounts of bureaucrats at the time have indicated the role of the PM and the Minister for I&B in the 1980s. https://mumbaimirror.indiatimes.com/opinion/columnists/mayank-shekhar/rajiv-rewrote-ramayana/articleshow/15829798.cms

Nonetheless, almost all the narratives overlook one crucial element, which is that while print media largely remained untouched by structural reforms, even in the context of television there was hardly any effect as far questions of press laws, self-regulation and autonomy were concerned. Moreover, the policy debate in the 1990s reveal something distinctive about India's media system, beyond the divide across print and electronic news media is concerned, and that is the role of cultural nationalism. And this trend preceded the globalisation wave that swept into India's media system in the 1990s. To be sure, mass media in India, as anywhere else is also site for public expression and dissent, and much like art and cinema or any other domain of life, the press provides space for contestation and entertainment too. However, when we evaluate policies against its role in democracy, we can begin to see how massification of the press went hand in hand a rebellion of the elites in the late 1980s (Kohli 1989), and in turn privileged the cultural nationalist themes to further mould the media system in its image.

From a DI perspective, this would require us to interrogate not just changes in the structural or even 'regulatory' discourse of television in the 1990s, which as Narayan (2014) convincingly shows retained a dominant role for the state but also public deliberations between private media, political parties and globalisation in the context of policy at large. In their analysis of the media system in post-liberalisation India, Chakravartty and Roy (2013) have argued that a new form of 'entertaining news,' accessed by most through television became a privileged domain of politics in India. They go on to show the precise ways in which this relates to the democratic politics in India's in specific regional contexts.

However, from a media policy perspective, this shift towards entertainment and trivialisation of news reveals a more disturbing trend which is the emergence of editors and journalists who provide legitimacy to political elites including *Hindutva* ideology through a framework of self-regulation that applies as much to the electronic media as to the press. The most glaring instance

of this institutional dimension of policy that emerged in the 1990s was the growth in instances of *Hindutva* affiliated right-wing parties to be able to court mass media organisations *both* through a cultural nationalist discourse *as well as* a clientelist policy that comes close to the 'pluralist polarised' model in media system theories (Hallin and Mancini 2004).

Paying attention to policy, and not just regulation of the press is crucial if we are to unpack the role that cultural nationalism and this would include mapping the overlaps between *Hindutva* and the discourse of globalisation as it spread across the media system in the 1990s. An early instance of this relationship is evident in the case of Jain TV, hailed as India's first private broadcaster in the 1990s, and it demonstrates how institutionalisation of communal agenda was negotiated not only in cinema (Kaur and Mazzarella 2009) but also through a policy discourse of *Hindutva* which tied powerful interests in news media to an ideology of cultural nationalism.

The rise of Jain TV shows the extent to which the BJP is able to take advantage of the weak discourse of self-regulation in policy, and exploit it in terms of promoting its ideology in the mass media. Promoted by JK Jain, a political activist associated with the Hindu nationalist organisations and later an MP for the Bharatiya Janata Party in the early 1990s, Jain TV is a model that paved the way for the gradual institutionalisation of *Hindutva* ideas in India's media system. Even as his party campaigned against 'foreign' influence, Jain was given a foothold in the media system, through a patron client system that extended into the most strategic domain of policy, complete with a Russian satellite network being used to beam content over the Indian subcontinent.[48]

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[48] An MP running a network which was technically illegal on his part, Jain Satellite Network assured its political patrons, particularly the BJP leadership that his channels would adhere to India's cultural uniqueness. Jain eventually fell out with the RSS and his network was shut down but not before he managed to rope in star politicians to support his projects. Dalal, Sucheta, "Charity begins at home as BJP deputy chief minister tries to prop up Jain TV" in <u>The Times of India,</u> 25 June 1996

This might seem like an exceptional instance, but in the coming years leading mass media proprietors and with them several 'traders turned editors' courted *Hindutva* political party leadership, moving sharply from the Congress party which had initially sought to take advantage of satellite revolution for its own political agenda. Another important example of the ways in which the Hindutva parties took advantage of globalisation wave and investment in satellite networks was the case of Zee TV, whose proprietor Chandra was another 'trader turned editor' who had set up shop in India after registering his company in British Virgin Islands while the Congress was in power. However, in the course of the 1990s, Chandra moved from working as a small time Congress in Haryana, to become a full-time member of the RSS and was appointed a BJP MP soon after he launched a spate of commercially successful media channels in the 1990s.[49]

These instances show how *Hindutva* forces were active both on the policy front, framing concerns regarding ownership and regulation in terms of cultural nationalism and also in the public arena for using news media to reach new audiences in India and abroad. Eventually the state did not simply trump globalisation (Narayan 2014) but in the context of changes heralded by the rise of global investment in mass media, it was Hindu nationalism that trumped all other political forces in the policy domain. Their template, a combination of weakening policy and using a more communicative discourse might have followed from the line set under Prime Minister Indira Gandhi in the Emergency era, but eventually it was their cultural nationalism and core *Hindutva* ideology which compelled private interests to agree to a consensus around it.

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[49] The Original 'News Trader': The Irresistible Rise of Subhash Chandra", in The Wire, 16 March, 2016

Brokering deals with media barons, including Rupert Murdoch, most opposition parties also ignored substantial problems of media policy and regulation. In fact, at the time when Jain TV proprietors were expanding their operations, in 1995, India's Supreme Court had called for a review of policies concerning broadcasting laws and regulation. But given the weakness in the policy domain and the nexus between party political agenda and interests in globalising media, it was again a cultural nationalist framework that opened the doors to media interests including those attached to Rupert Murdoch and his STAR network of channels. Unlike Jain's entry into broadcasting, Murdoch came to informally engage with the Indian government at a time when the Congress was still in power in Delhi. Rather than emphasise the need for a 'broadcasting regulatory authority' as the court had suggested at the time of its judgment in 1995, it was a drift towards competitive cultural nationalism, with its emphasis on 'foreign' influence that provided the pretext for such deliberations.

Even before the Supreme Court's judgment, in a first-ever meeting between an Indian political leader with Murdoch in 1994, Congress Prime Minister PV Narasimha Rao told the STAR owner that as long as he didn't treat Indian culture as an 'gutter inspector', he would was completely free to promote his 'free market values.'[50] A few years later, when Bharatiya Janata Party (BJP) ascended to control the power in Delhi, in 1998, it not only strengthened this ideational framework but further institutionalised it by completely ignoring the draft of the Broadcast Regulatory Authority which had been introduced under the Third Front government. Instead it appointed the largest private broadcaster in India, and Murdoch's main rival in news programming, the editor of Zee TV to the treasury benches in the Parliament.

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[50] In a meeting, Rao and Murdoch focussed mostly on the question of cultural aspects with the PM seeking assurances that India should 'not be ticked off or viewed with the orientation of a gutter inspector.' See Ramachandran, T. R. "PM deals firmly with Murdoch" in The Times of India, 12 February 1994

Most large news media proprietors obliged not on the basis of law but through self-censorship, which in turn relied on a 'definitive template' involving 'top-down manner in which TV news content is created across most news networks' in India today.[51] Meanwhile the lack of involvement and literally the absence of the Left parties became ever more crucial to this consensus. As Parthasarathi (2010: 331) argues, the Supreme Courts' decision 'ensured that the ideology of choice and diversity, so characteristic of the consumer society the State sought to promote, got legal sanctity.' However, beyond the legal context, it was sheer lack of ideational contestation that allowed media policy to be reduced to shadow boxing on themes of cultural nationalism with *Hindutva* inflected ideals about 'invasion from the skies' dominating the brief debate that took place around broadcast regulation in the Lok Sabha in 1997 (Narayan 2014, Ninan 2000).

Moreover, in the wider context of media policy, the Third Front parties were the only ones who could have challenged the cultural nationalist consensus but with their focus largely on reviving public service broadcasting meant that no change occurred at the systemic level. Communist parties led by the CPI(M) simply pushed an alternative legislation on the issue through a last-minute ordinance route which had become a short hand for passing laws without adequate debate in the 1990s. But, even as Prasar Bharati Bill made a new autonomous public service broadcasting on paper, given the political realities, it barely touched upon the problem of self-regulation of commercial news television which continued to dominate national audiences, or in the context of print which saw rapid growth of mass readership both in English segment as well as in various regional contexts.

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[51] The Original 'News Trader': The Irresistible Rise of Subhash Chandra", in The Wire, 16 March, 2016

Ironically, even as the United Front government introduced the public broadcasting debate in the Parliament, a section of its own leadership negotiated with private broadcasting interests including with Rupert Murdoch's owned STAR TV who made his formal entry into news television in the same year, 1997. Rather than debate broader policy framework, even the Left parties fell back on the template of cultural nationalism that saw them negotiate terms and conditions for such an opening. In the run up to Murdoch's entry, UF government ensured that his STAR TV network had tied with a prominent mercantilist media conglomerate Ananda Bazaar Patrika (ABP) that had cross sector interests in print, mass media and a host of allied non-news interests. Unsurprisingly, since policy consensus now relied on top-down interventions, rather than horizontal deliberations, even as the United Front government avoided a debate on the public service legislation, it relied on the colonial era Ministry for Information and Broadcasting for the backroom negotiations with Murdoch.[52] The fact that the Indian partner of STAR's English news channel would be 'exercising editorial control, retaining the copyright on programming' proved to be enough reason for the Prime Minister to launch the channel from his residence in New Delhi.[53]

Similarly, in the context of print media, even though foreign direct investment was restricted, presence of powerful 'mercantile interests' associated again provided a continuity from the past. While remaining unconcerned with themes of policy, successive governments opened entry barriers only as much as it suited their agenda, an process that Sonwalkar (2001) argues represented the 'hidden agenda' of large mercantilist interests in retaining control over the press. However, beyond the question of FDI, there was nothing hidden about the political

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[52] See "Broadcasting bill will ensure freedom tempered by regulation, says Reddy" in The Times of India 17 June 1997

[53] Based on readings of Prime Minister IK Gujaral's papers at NMML. For details of the negotiations between ABP and STAR TV, see exercising editorial control, retaining the copyright on programming, besides holding the web https://www.outlookindia.com/magazine/story/the-master-and-the-prodigal/209725

consensus which saw hardly any debate on legal and statutory reforms. All key institutions such including the Indian Newspaper Society, Editors' Guild of India, All India Small Newspapers Editors' Conference and appointees to the Press Council of India joined large newspaper proprietors, but said little either on the entry of Murdoch's press in the electronic media or the debilitating failures of self-regulation across the media system.

In setting the policy agenda, newspaper proprietors as well as these institutions had aligned with political elites who had framed policy in cultural nationalist terms, and focussed on mass media, with a few exceptions in national press. The mediocrity of policy was reflected in rising instances of 'sham transactions, fraudulent trade practices and black money being used to fund the news.' (ibid: 667). On the the other hand large corporate run English conglomorates began 'eagerly following *The Times*' philosophy, inspired by the press baron Rupert Murdoch: a newspaper is a business like any other, not a public forum' (Sonwalkar 2002: 828). This division suited *Hindutva* ideologues more than anyone else, as they exploited loopholes in policy towards more and more communalisation and reap ideological and electoral dominance at the end of the 1990s.

Conclusion

In the six years or so that the BJP spent in power in Delhi, until 2004, neither the issue of globalisation nor particular legislation concerning broadcasting regulation were ever raised again. Most crucially, policy questions concerning the gradual convergence in technologies across print, electronic and online media also remained unaddressed, a debate that I shall analyse in subsequent chapters. All the while ideological propaganda continued with mass media as well as smaller regional press becoming yet another site to advance a form of 'calculated communalism' (Ninan 2007 p. 224) through privately run news outlets, particularly in the Hindi heartland in north-India.

Beginning with automous institutions like A-INEC, which debated questions of media owenership and self-regulation, the policy debate in the 1990s center on emotive questions of cultural nationalism rather than challenges of media globalisation. As Saeed (ibid) argues that a decline in quality journalism was a direct 'consequence of a disconcerting nexus between influential politicians, powerful corporates and profit-maximizing news organizations.' But in addition, media policies aimed at fostering democratic public sphere, now framed problems of self-regulation in terms of cultural nationalism. In turn, the political elites, particularly *Hindutva* groups could assert policy influence through institutionalising practices of self-censorship across the media system, and cultivating direct interests in private news channels.

As this chapter has shown, the consensus around cultural nationalism was compounded by the relative lack of participation of the Left parties, and a general weakness in policy discourse which could not draw in the support for social movements into institutional deliberations. The absence of Left parties and allied social movements has a much deeper history, one that has close ties to the failure of the constitutional moment to be more inclusive of their demands to the general drift towards cultural nationalism amongst Delhi-based party apparatchiks. This weakness has been underscored in brief in this chapter and will be discussed in the context of communications policy in the next one.

Chapter 5

Evading Privacy: Politics of communications surveillance until the 1990s

Besides media regulation, the other important policy issue analysed in this thesis relates to the problem of communications surveillance and policies to safeguard rights of citizens online. Following from the discussion so far, this chapter maps the pre-eminence of cultural nationalism in this context and shows how restricting it helped keep technological changes within the ambit of a narrow discourse that left problems of surveillance unaddressed. The chapter relates the debates around communications surveillance to themes in political economy of telecommunications as well as the role Hindu nationalism and its influence in terms of marginalising concerns regarding autonomy and communication rights of India's citizens until the 1990s.

In this chapter I begin by retracing the debates across two periods, one concerning the constitutional aspect of communications policy and secondly the role of cultural nationalism, with a focus on moments of technological change during each era. In the first context, I focus primarily on debates around telegraphy and the context of telecommunications which relied on a weak 'coordination discourse' of policy (Schmidt 2008) that did not address concerns raised by amateur technologists and independent media associations. In the second context, I focus particularly on the emergence computer-based networking as well as satellite technologies in the 1970s and again consider the weakness in policy in terms of allowing greater participation of IT and computer science amateur groups in communications policy. In each instance, I show how this also meant that policies did not address concerns relating to communication surveillance.

In analysing policy debates around technological changes, I show how in each instance, party leadership came to rely more and more on a 'communicative discourse' (Schmidt 2008) that related policy to ideas like monitoring of cross border data and information flows. All through the chapter, I pay close attention to the role of professional coders as well as amateur telegraph and radio signallers who remain vital to institutionalising a policy consensus particularly in moments of technological change. I also underscore the significance of international arena as a prominent site for consensus building, particularly in the context of satellite technologies which saw India propose alternatives to the American 'free flow of information' doctrine but in a way that subverted the potential for progressive reform.

In theoretical terms, the chapter continues to develop the analysis by showing the pre-eminence of a 'communicative discourse' and how it proved helpful to *Hindutva* leadership in sustaining the policy status quo. However, the analysis also shows how the weak coordination with technologists eventually led to growing dissatisfaction among amateur computer networking communities and IT workers who had the technological know-how but were ignored or actively marginalised. In the following chapters, I show how a further shift towards online networking provided the basis for their ideas to regain policy significance and develop an alternative discourse which in turn challenged the dominance of cultural nationalism.

Indian Telegraph Act and the colonial constitution of communications policy

From a constitutional perspective, the problem of lawful surveillance in communications in India relates to the persistence of laws that shield the discretionary powers of the state. This weakness is compounded by the fact that the Constitutional framework never fully addressed this problem in the course of the lengthy debates on press laws and fundamental rights. From a discursive institutional perspective, this *lack* of debate lies at the heart of the ability of official licensing agencies to allow misuse of surveillance powers under the law while denying it even

exists in public. To understand how this situation emerged, we need to revisit the colonial era context that led to the formulation of the Indian Telegraph Act, and the colonial era politics of telegraph which continues to serve as the basis for licensing of online services until very recently.

Even after a century since it was passed in 1885, the Indian Telegraph Act remains the primary instrument for licensing public telecommunications services in the country, and it still includes references that were once used to justify routine surveillance, particularly against journalists and political activists in the colonial era. Section 5(2) of the Telegraph Act states that the licensing agencies can 'for reasons to be recorded in writing, by order, direct that any message or class of messages to or from any person or class of persons, or relating to any particular subject, brought for transmission by or transmitted or received by any telegraph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to the Government making the order or an officer thereof mentioned in the order.'[1]

As mentioned briefly in the previous chapter, the demand to repeal Section 5(2) was a core component of the media policy reforms agenda at the time of independence. Before I discuss why these demands were marginalised, we need to consider the wider political context in which telegraph related laws turned surveillance into an administrative problem rather than a subject of public policy. After all stealthy informational surveillance has been argued to be the bedrock of imperial domination and conquest of India (Bayly 1999). However, in the context of telegraphy the turn towards legal justification in the name of 'public order', reflected a change in British approach. The change came at the end of the *Company Raj* which abruptly changed the policy framework for how communications were governed and developed until then.

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[1] Indian Telegraph Act, 1885

In the course of the *sepoy* rebellion of 1857, thousands of miles telegraph wires were destroyed, and concerns of 'public order' provided the colonial government a crucial pretext for expanding its surveillance machinery while also ensuring that modern telecommunications and telegraphy could be put to commercial use in India. As Shridharani (1953) has argued, telegraph services were closely tied to the strategic interests of the colonial authorities who considered these networks as being part of its military infrastructure, 'arteries of expedition' as he calls it. The British administrators were aware of the potential of telegraphy in speeding up communications across India, and their laws primarily catered their need for developing this 'political reinforcement' for the stability of their authority across the colonised territory.[2]

But with the emergence of considerable commercial interest in telecommunications, especially in the course of rapid expansion of transcontinental mercantilist interest in telegraphy in late 19th Century, added to the desire to use these networks for commercial revenue. By the late 1880s, politics and political economy of telegraphy and telecommunications served large Indian mercantile lobbies which used it for exchanging confidential information using coded words over these networks. [3] The result of was that the licensing authorities in India, unlike their counterparts in Britain, used discretionary powers to constitute a licensing regime that retained discretionary powers to enact surveillance of these networks. The Indian Telegraph Act, with its pretext of safeguarding the 'public order', provided an ideal legal instrument and constitutional sanctity to this bargain.

While the body of the law itself drew from the English licensing norms first introduced in the late 1870s in the British Parliament (Raghavan 2007), in reality the policy discourse that

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[2] Gorman (1971: p. 597) quotes from a letter sent by the Viceroy, sent on December 9, 1854, where Lord Dalhousie argues that the telegraph had changed the capacity of the administration to coordinate their actions across the subcontinent.

[3] The introduction of long distance telegraphy, and later the introduction of inter-networked typewriters, also added commercial significance to these networks, especially for transnational trading firms based in Bombay and Calcutta. See "Typewriting by Telegraph: A Wonderful Invention" The Times of India, 27 Feb 1925

emerged in practice of managing commercial telegraph services, there was hardly any mention of the routine surveillance of on-line and tele-communications. Rather than publicly debate the political and strategic concerns facing the Raj, colonial lawmakers subdued any potential demand for privacy or rights of the citizen subject in the country. As per the law, the licensing agencies were allowed to intercept online (both wireless and wired) messages based on an 'occurrence of any public emergency, or in the interest of public safety.' And very often they did so anyway.[4]

In particular, the Department of Telegraph, merged with the Department of Post to become DoP&T in 1914, gradually became a site for constituting the basis for lawful surveillance. The fact that telegraphy services in India also spawned a media empire through the expansion of imperial 'wire' services that linked telegraph to the ideas and interests of the empire rather than including the rapid expansion of commercial telegraph networks across the Indian subcontinent (Headrick 2010). By framing problems of surveillance in terms of technology, telegraph to be precise, was one way in which the imperial authorities legitimised surveillance of communications while ignoring the role that telegraph now played in India's social milieu.

To be sure, the British telecom bureaucracy was hardly concerned with the journalistic use of telegraph and wire services (Silberstein-Loeb 2014) but even less so regarding the rights of their subjects. Its primary focus was on commercial revenues that accrued to the DoP&T by allowing telegraph wires to be used as a safe conduit for merchant communications. In spite of the fact that ordinary Indians contributed a third of all messages sent on telegraph wires, their rights did not matter. As Gorman (1971) shows in the history of colonial telegraphy, there was a casual disregard for the privacy of Indians with pioneering technocrats like O'Shaughnessy

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[4] Section 5(2) Indian Telegraph Act, 1885

taken aback by the ease with which Indians adapted to the telegraph system. They mocked the seeming lack of concern regarding surveillance, commenting that the 'absence of all disguise' among the Indian subjects as they used the technology was 'almost beyond belief' (ibid: 597).

Even as colonial attitudes disregarded the rights of Indian subjects, the question of commercial interests and confidentiality of their communications was still a concern for policy under the Raj. It was here that the colonial administrators, particularly those from the DoP&T, developed a weak coordinating discourse that evaded all public question of legality of surveillance clauses in the Indian Telegraph Act. Instead of deliberating as part of public policy, the problem was passed into the hands of lower-ranking telecommunications bureaucracy or to the very upper ranks of international diplomacy, in each case framed in terms of technology rather than its social implications. This pattern became institutionalised in the subsequent decades when the Indian nationalists took hold of the surveillance machinery of the Raj authorities and largely framed problems of communications policy in narrow technical terms.

However, the role of mercantile interests is also significant since it prepared the political economic context for communications policy at a time of when wireless and coded communications technologies emerged in the early 20th century. An example that demonstrates their role in weakening the policy discourse emerged in the course of public deliberations under the Telegraph Committee that was set up in 1904 to review the commercial potential of telegraph networks. The primary intention was to explore the potential of exploiting communications networks for revenue for the British-Indian government but it also set a deliberative weakness which evaded any public debate by framing problems of surveillance in technological rather than policy terms.

In the course of the review, the problems faced in the use of coding of private messages on the wired (as well as through postal) networks was brought forward by industry lobbies. The discussions were initiated by mercantilist lobby groups, like the Calcutta-based Indian Chamber of Commerce, which were keen to protect the secrecy of confidential information, which they often shared through telegraph and telecommunications networks.[5] For the British authorities, including the military representatives who led the technical corps of 'signallers' employed for coding the messages online telegraph wires, the strategic significance of these networks was of paramount interest. In addition, their only other concern was to reduce the budgetary allocations for the DoP&T, which was facing budget cuts at home.[6]

That the question of constitutional or legal reform was largely irrelevant to either group was reflected in the brief exchange between mercantilist lobbies that deliberated on the issue largely from their interest in enabling safer commercial transactions. Limiting their criticism to the issue of procedural matters, as the Report of the Telegraph Committee shows, the representatives of the Chamber of Commerce in Calcutta and the Upper India Chamber of Commerce raised concerns regarding the privacy of their messages online. Instead of the rights of Indians, the discourse highlighted cumbersome administrative procedures, the latter requiring a confirmation from sender that messages did not include any more code words than allowed under the guidelines. In addressing the problem, colonial authorities responded that they had taken a 'favourable consideration' to the demands that were limited to such procedural requirements.[7]

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[5] Report of the Telegraph Committee, Calcutta: Office of the Superintendent of Govt. Print., India, 1906-07 (available at the British Library, V 16282, Report of the Enquiry Committee, etc. / INDIA [Republic of India]

[6] Ibid.
[7] Ibid.

Moreover, on the question of the use of code words, the authorities shrewdly used a reference to technological change and underscore the role of international norms to reassure mercantilist commercial interests. Adding a technological dimension to the already weak discourse of privacy, British officials referred to ongoing negotiations at the Paris-based Comité Consultatif International Téléphonique et Télégraphique (the predecessor to the United Nation's International Telegraph Union) to evade a more public debate on the subject. Responding to the chambers' calls for the removing such restrictions on encryption and coding of telegraph services, the Review Committee clarified that such norms were 'meant to ensure compliance with an international rule which is binding on all Telegraph Administrations, and it is unnecessary therefore to deal with the merits of the question.'[8]

Indian nationalism, press reforms and communications surveillance

The evasive discourse under the British authorities towards the problem of surveillance however was not the primary reason why technological change heralded by the rise of modern telecommunications did not yield more reforms. The constitutional dimension also involved the nationalist movement and its leaders who could have capitalised on the problems faced by Indians under the existing laws and used changes in technology to set a stronger policy agenda. After all, the British 'dirty tricks' departments, as its agencies collecting intelligence on political opponents came to be notoriously known, had actively targeted Indian nationalists alongside the international communist movements which presented a severe challenge to the empire at the time (Killingray 1997).

However, in the decades leading to independence, the anti-colonial leadership had to accept these practices of the British administrators if they were to be able to use the same networks

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[8] Ibid.

for their own political activism. While the British authorities were well aware of the political implications of introducing commercial telegraph networks, they framed licensing laws as well as broader framework for communications policy so as to be able to monitor their opponents, including those in the nationalist press who often used telegraphy as a means to publicise the failure of the Raj. To be sure, amidst the political struggle for freedom, the introduction of telegraph and radio broadcasting in India was part and parcel of what Lelyveld (1990: p. 42) calls the 'complicated history of British intention and reluctance, Indian initiative and resistance, and unanticipated consequences' evident in various policy domains in colonial India.

This was also the Indian Post Act of 1898 which similarly saw a rapid expansion of public networks but also added discretionary surveillance powers to imperial authorities under the law.[9] The expansion of postal and telegraph networks also worked to the advantage of the nationalist leadership as well and they rarely dabbled in unlicensed use of technologies. Moreover, keeping in line with their shared strategic thinking, the British gradually opened the surveillance machinery of the Raj selectively to their political antagonists. The change began soon after the World War I, a period when the British leadership reached out to the Indian nationalists on the pretext of defeating the Communist 'red scare.' As Killingray (1997: 169) has argued, colonial politics of surveillance and policing in the inter-war years continued unhindered even after the Congress was elected to power in the major states of British India in the 1930s.

These changes also went well with the growing recognition among nationalists that communications were paramount if they were to command the fruits of national sovereignty.

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[9] As per Section 26 of the Postal Act, the official authorities could order surveillance and interception based 'on the occurrence of any public emergency, or in the interest of the public safety or tranquillity.' Indian Post Office Act, 1898

Rather than dissent against the laws like Indian Telegraph Act, the Congress leadership took a more cautious approach, not so much due to perceived 'red scare' but as a means to subdue the growing menace of politically violence including the British instigated divide between the two leading religious communities of the subcontinent (Pande 1995). Not only did Congress leaders evade the problem in the course of the first constitutional review that led to the passage of the Government of India Act in 1935, they also overlooked its wider impact on the press and institutions of journalism and public accountability that became a primary target of British surveillance at the time.

But it was in the crucible of World War II, in 1943, just as demands for press law reforms gained momentum, that a cross-section of the nationalist movement adapted the same evasive discourse on surveillance as their British antagonists. Infrastructural and administrative changes during the War also made such a move significant, particularly with the nationalisation of all telecommunications services in 1943 that resulted in licensing powers and authorities moving under a single telecommunications agency the Department of Post and Telegraph in Delhi. These changes in political economy provided sort of a 'critical juncture' (Schmidt 2002) when the coordinating discourse relating the Congress leadership with the progressive journalist unions seeking reforms in policy, gave way to a more polarising agenda that aligned politics of surveillance directly to mass politics of culture and nationalism.

The tensions came to fore in the course of Press Laws review committee when, as discussed in the previous chapter, the question of legality of Section 5(2) was questioned by journalists and editors as another instance of state authorities using surveillance and interception in order to suppress 'freedom of information' being sent over telegraph wires.[10] As discussed earlier, the

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[10] A-INEC's president's response see Brelvi, S. "Problem of Freedom of Information: Decisions Made at Geneva Conference" in The Times of India, 23 May 1948

professional All-India Editors' Conference (A-INEC) represented the reformist currents in the struggle for independence and the question of reform of Indian Telegraph Act as a key part of their discourse. In the course of the official review, journalist members of the committee, particularly SA Brelvi, questioned the legitimacy of legal provisions allowing routine interception and argued that it be revoked as part of the reform.[11]

Subsequently, A-INEC leadership even took these demands to the international arena. At a UN sponsored summit on human rights, held in New York in 1948, where Brelvi called for 'free flow of information and news', arguing that the telegraph and radio services in India be governed in line with human rights framework.[12] However, following the deliberations discussed in the previous chapter, rather than repealing the Indian Telegraph Act, the political leadership of the Congress decided to retain the discretionary powers under the existing licensing regime. In responding to the final report of the Press Laws Inquiry Committee, Congress leadership in Parliament did not even broach the subject let alone repeal the Indian Telegraph Act or review its content in the course of the constitutional settlement.[13]

The colonial context provided a convenient framework which remained largely untouched in the course of debates on Communications in the Constituent Assembly. By November 1949, the regulation of all existing networks was listed under the entry number 31 of the List I or the Union List of the Seventh Schedule of the Constitution of India. The formal entry on 'Communications' in the Constitution ensured that all laws relating to 'posts and telegraphs, telephones, wireless, broadcasting' were strictly a subject of the Union government and in

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

[12] A-INEC's president's response see Brelvi, S. "Problem of Freedom of Information: Decisions Made at Geneva Conference" in The Times of India, 23 May 1948

[13] Within the constituent assembly, which continued its deliberations when the press laws review submitted its report in September 1948, but the question was never ever raised once. For detailed discussion of the clauses of see Raghavan (2007).

addition the entry also added the phrase 'and other like forms of communication' to future-proof the new regime against any technological change.[14]

Wireless technology, amateur activism and discourse of communications policy

As we discussed till now, the colonial and constitutional context provides the basis for communications policy, but there is yet another crucial aspect to the discursive institutions which frame policies and institutionalise consensus around important themes like surveillance. These relate to the role the technologists, not merely in their practice of coding words and messages in telegraphy, but their participation in public policy debates around emerging technologies. In the early 20th Century, wireless networks were among the most promising technologies which had been deployed extensively both in strategic contexts since the World War, but also in the media systems worldwide. However, in India, amateur wireless signalling was not only banned but the role of amateur technologists marginalised in the political and policy arena.

Beginning in 1925, when professional wireless 'broadcasting' was opened for private licenses, the British government had ensured that it retained such powers so as to be able 'take over or operate these or impose a complete censorship or close this down in times of emergency, impose complete or partial prohibition or pre-censorship' (quoted in Farmer 2000). Nonetheless, several regional governments, in particular many of the 'princely' States allowed coding in telegraphy and even promoted the use of local vernacular languages for the purpose. But after the Second World War and more so after the ascension of these stated into the Indian Union, technologists were forced to abandon their practice in favour of the guidelines issued

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[14] Entry no. 31 of VII Schedule of the Article 246, "List I – Union List" Constitution of India. Ibid.

by the Union Government. The effect was again harsher in the border regions such as Kashmir, where local rulers had encouraged the use of Urdu based code in the 1940s.[15]

This was largely a result of an unthoughtful policy discourse, which again emerged from the nervousness among the Congress leadership regarding the territorial Partition of India, but also their inability to engage the wireless 'ham' radio services in the country. Occasional opportunities for public reviews, such as the First Press Commission, did bring up the problem of interception of messages under the licensing regime, but the Congress leadership largely overlooked these concerns in favour of strictly controlling the misuse of radio for communal politics, in turn framing the debate again in terms that ignored the rights of the citizens. As discussed in the previous chapter, although Prime Minister Nehru had initially favoured radical reforms, he could not resist the manoeuvres of his party leaders who were against repealing the Indian Telegraph Act. The breakdown of the state's intelligence machinery in the course of Partition had again played a role in fanning nationalist anxieties, and even led to the misuse of the Military Intelligence for partisan interests.[16]

Once again, it was under Congress' conservative wing led by VB Patel, who headed the Home Ministry at the time of independence, that the Union government justified continuation the framework of telegraph era laws. In practice, however, the weakness of policy and discretionary nature also meant routine misuse of official machinery for party political purposes. So even it cracked down on amateur technologists, the practice of 'dirty tricks' of the DoP&T continued unchanged under the new executive. On some occasions, Home Minister

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[15] Coding and encryption in telegraphy in India became a clerical job as signalers' corps of the military under the licensing laws. Details in account of Shridharani (1953).

[16] Ironically, even the correspondence of the Minister for Communications, a close friend and interlocutor for the Prime Minister, was also under surveillance and in each instance, the chain of command extended all the way up to the Ministry of Home Affairs. Several other factors also contributed to the politicization of the military intelligence and Noorani (2015) hints at the possible Hindutva sympathies of the Home Minister Patel in evading the question of surveillance. Ibid.

Patel even kept Prime Minister Nehru in the dark about the underhand practices and turned the British era surveillance machinery into an instrument of political surveillance against their opponents in various communities and regions of the country.[17]

More crucially, instead of coordinating their actions with the relevant legal and technology groups, including journalists' unions campaigning for the repeal of the Indian Telegraph Act, the Congress leadership focussed all its energies on institutionalising statutory guidelines that reflected predominance of cultural politics of territorial control rather than commitment to reform. This turn, towards conservative nationalism by relating concerns of licensing telecommunications with territorial integrity of India, had a devastating impact on amateur 'ham' radio technologists and led to the destruction of any unlicensed telegraph network along India's territorial borders. The only Communications related legislative debate in the Parliament, after independence, was on the introduction of the Telegraph Wires (Unlawful Possession) Act of 1950, which made it illegal for anyone to set up an unlicensed telegraph network anywhere in the territorial borders of the country. [18]

From discursive institutional perspective, the impact of this narrow framing of the question of policies relating to Communications left out amateur technologists who could have strengthened the coordination between the state's agencies, political leadership and practitioners of wireless telegraphy at the time. With problems concerning surveillance being reduced to narrow themes of technology, amateur users were considered merely technical subjects rather than active participations in policy. A significant change was the decline in the participation of Indian 'hams' in the transnational wireless radio signalling movement which

[17] see A. G. Noorani, "Integrity & intelligence" in Frontline, 29 May 2015

[18] Telegraph Wires (Unlawful Possession) Act of 1950

had led to formation of progressive radio operators' union across the world. As mentioned earlier, British government had allowed private radio networks to operate under the ambit of the Indian Telegraph Act, but in the course of India's independence few ham operators survived the policy onslaught.[19]

In the subsequent decades, particularly under the leadership of Indira Gandhi, who had already started meddling with independent media unions as the Minister for I&B since the early 1960s, communications policy debates also took a conservative turn towards cultural nationalism. Instead of coordinating a response to the question of technological change and persistence of surveillance, Prime Minister Indira Gandhi initiated a more populist discourse that sought to supress amateur activism while seeking to recruit 'ham' radio users within a narrow framework of territorialising the airwaves. On the one side, instead of revising telegraph related legal regime her government added new guidelines that brought amateur activism within the ambit of telegraph era laws, while on the other hand she made special efforts for popularising standardised instruments and practices that suited her own party-political interests.

The latter purpose became evident in the changing role of radio signallers into an instrument of state propaganda during the war with Pakistan, in 1965, when the licensing agencies encouraged amateur signallers to use their technical expertise as part of a 'civil defence' campaign. In the course of the 1971 war, Indian hams, their numbers at the time just around 1000 licensed users, again volunteered to search and report 'enemy signal' and set up surveillance networks in several prominent metro cities.[20] The militarisation of civilian networks added to the existing weakness in the discourse of policy which targeted technological change without adequate debate or deliberations. More crucially, it turned

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[19] "Indian Radio Amateurs: To The Editor" in The Times of India, 21 October 1948
[20] "Amateur radio operators to help civil defense" in The Times of India, 16 November 1971

communications policy debate into an image of mass polarisation evident in media politics with the political leadership able to mobilise amateur groups in support of their ideological agenda.

Against 'foreign' influence and the evasive discourse of Asian Telecommunity

The emergence of trans-national satellite technology that provided the basis for easy transnational data transfers added another dimension in India's media and communications system in the 1960s. In line with the consensus around media policy, on the one hand Prime Minister Indira Gandhi took every opportunity to use these debates to keep emerging technological change under the sway of official agencies, while on the other framed the emergence of satellite networks in terms that reflected the suited her use of cultural nationalism in the 1970s. The reliance on a paranoia-laced rhetoric, served as a sort of a 'communicative discourse' (Schmidt 2008), that framed the problem of surveillance not in terms of free and fair distribution of the world's wireless radio frequencies or 'freedom of information' as A-INEC's leadership had once put it, but in terms of national sovereignty and cultural influence.

In the context of addressing the challenge of technological change, official telecom agencies had some basis for initiating a review of policy. Since independence, more than a thousand Indian telecommunications experts joined various UN agencies like the International Telecommunications Union (ITU), while its diplomatic corps developed a significant portfolio in various international organisations involved in the development of telecommunications as well as develop policies on behalf of countries in the non-aligned world. Even in the context of satellite networks, in 1965, just as the international debate on their use in communications and broadcasting started to gain political significance, India had a leadership position to steer the debates. In 1965, Dr Manohar Balaji Sarwate, an aeronautical engineer, was elected

uncontested to the post of the Secretary General of the ITU which had become a crucial arena for setting regulatory and policy norms.[21]

But given the prominence of a narrow discourse at home, the debates around satellite networking and computer networks-based data transfers at the ITU witnessed India's position move further away from the demands. Instead of advocating the 'freedom of information', India contested the doctrine in international telecommunications policy which were already witnessing growing militarisation by Cold War antagonists who used satellite networking and computers as means for advancing their geopolitical interests. In particular, American diplomats and communications officials argued for building global 'information superhighways' and co-opted the framework of 'free flow of information' to expand their corporate and private media interests in the Third World (Padovani and Nordenstreng 2005).

While Cold War antagonisms brought a new urgency to the international communications debates, it did not mean that geopolitics alone determined the policy within India. Instead of opposing 'free flow of information' effectively through a rights-based doctrine, as groups like A-INEC had once argued, Indira Gandhi and the Congress leadership under her turned towards more right-wing ideas of cultural nationalism. This was not a natural *fait accompli*, for alternative visions and frames of free flow of information were widely debated by across the world including socialist informatics approach to resolve the issues concerning surveillance of cross-border communication. It also brought together an alternative socialist alliance and a progressive ideal of rights-based ideas into the debates around satellite communications.

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[21] See "Plenipotentiary Conference draws to a close: Dr. M. B. Sarwate elected Secretary-General and Mr. Mohamed Mili Deputy Secretary-General". <u>Telecommunications Journal</u>, Vol. 32, no. 11. 1965.

For instance, such policies were advanced by the Intergovernmental Bureau for Informatics (IBI), an international forum that emerged in the mid-1960s and sought to popularise such a perspective in the context of satellite networking and social informatics relevant to the non-aligned countries too. In the context of large-scale commercial data transfers and potential for misuse of personal information through surveillance of computer networks, initiatives like the IBI promised the 'socialization of informatics' as a means to counter the flow of information and geopolitical assertions of powerful Cold War antagonists. In the 1970s, IBI became the focus on intense international deliberations including over forty-five Asian and African nations which agreed to its principles in the 1970s (Pohle 2012: 109).

However, in India's domestic communications policy debates, such alternatives ideas were hardly ever brought into discussion by the political leadership. Instead the focus of the Parliament and Prime Minister Gandhi remained firmly on questions of control and relied on geopolitical frames to define the contours of the policies regarding the transnational data flows and communication across India's borders. Moreover, instead of using a socialist framework that could have appealed to its budding crop of IT professionals and communications engineering corps that had a long history of solidarity with African and Arab nations, the debate veered away towards assertions of cultural sovereignty that completely betrayed the Nehruvian ideal of building a 'one world' through new technology.[22]

As discussed earlier, in the context of the long-distance computerised data-transfer vis satellite networks, most Western countries led by the United States pushed for a commercial and libertarian vision, one that reflected the 'corporate libertarian' consensus within the US media system at the time (Pickard 2007). In contrast to the American approach, several countries

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[22] Prime Minister emphasized the role of "communications" as a major driver for world peace, see "Preface by Jawaharlal Nehru", in Shridharani (1953)

emphasised that the ITU and the UN could become a hub for promoting a more right to privacy-based framework. For instance, in the case of Canada, the debate on international flow of information and data transfers was seen through the lens of protecting the privacy rights of its citizens whose data was stored in the US. In the context of growing use of transnational satellite networking technologies by its all-powerful neighbour, the Canadian political leadership used the international arena to publicise the question of privacy and a related 'right to communicate.'[23]

Rather than engage with these debates surrounding the rights of Indians and their privacy, the political leadership goaded its officials to take a hard line position on free flow of information while ignoring the problem of surveillance altogether.[24] Already engaged in restricting the debate on media policy to themes of technology, Prime Minister India Gandhi used the internationalisation of the debate on satellite networks as a means to narrow the discourse further and equate the rights of the citizens with the power of the state. In doing so she mobilised the support of professional media associations associated with the Non-Aligned Movement (NAM) who were given privilege over the rather than amateur technologists at home.

In a remarkable policy move, Prime Minister Gandhi, speaking at a NAM summit hosted in Delhi, in 1983, Mrs Gandhi compared satellite networks to 'a third eye in the sky' that 'saw and scanned everything on the Earth.' Playing on the fears among NAM leadership she made frequent references to 'imperialism' and even information 'neo-colonialism,' using the framing of a far more progressive international campaigns associated with the New World Information

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[23] For an analysis of how countries like Canada came to evolve their international agenda see (unpublished Ph.D. thesis) Aliaa Ibrahim Dakroury, "Present at the Creation: The Telecommission Studies and the Intellectual Origins of the Right to Communicate in Canada (1969-71)", Carleton University, 2008 (Unpublished)

[24] "Regional Status For ITU Talks: Press Kept out of Meeting" in The Times of India, 16 October 1964

and Communications Order (NWICO) which followed in principles the ideas advanced under the banner of New International Economic Order (NIEO). Launched in 1974, under the resolution 3201 (S-VI) at the UN, NIEO emphasised 'equity, sovereign equality, interdependence, common interest and cooperation among all States'.[25] Instead of underscoring distributional aspects and inequality in world communications, Prime Minister Gandhi focussed on a narrow perspective that framed technological challenge in terms of a threat to national culture and sovereignty.

Arguing that the 'complex systems of data transfer' she provided a discursive aspect to technological change and called it a threat to the 'sovereignty of the nations and privacy of the individual.'[26] Even as she eased out critical voices from her government, in 1977, at the height of Emergency crackdown, the Union government seized on the idea of a separate 'Asian telecommunity' as an alternative to universal rights-based framework for addressing the challenge of satellite networks. This telecommunity had its basis in ideas of cultural uniqueness of Asia, even though many of India's 'ham' radio operators in India were not even allowed to communicate across its own neighbourhood. Even as official agencies cracked down on citizens' rights and ignored blatant cases of surveillance of their communication, New Delhi became a hub for cultural nationalism while ignoring the realities even in its neighbouring countries that were developing communications under an authoritarian system.[27]

Besides the weakness in the constitutional and political discourse, these debates added a more populist aspect of cultural nationalism to communications policy. This turn is evident in marginalisation of Congressmen like Indra Kumar Gujaral, who held ministries responsible for

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[25] Full text: http://www.un-documents.net/s6r3201.htm (accessed July 2013)

[26] These comments were made at a journalist conference organized by the Non-Aligned group of countries in New Delhi in 1983. See "Media in West biased: PM" in The Times of India, 10 December 1983

[27] "Communication is a tool of imperialism" in The Times of India, 8 February 1973

Communications as well as I&B under Indira Gandhi until he was unceremoniously removed in the course of the Emergency.[28] All through the 1970s, and particularly after the Emergency, assertions against 'information imperialism' went hand in hand with attacks against journalists and independent activists, as well as marginalisation of professional and amateur technologists who could have provided an alternative framework for communications policy. Meanwhile, Prime Minister Gandhi personally intervened in these deliberations, the degree of her involvement often puzzled UN and ITU leaders who were 'astonished at her knowledge of such a complex subject of telecommunications.'[29]

Politics, information technology and absence of new ideas

By the 1980s, a cultural nationalist discourse sustained consensus around policy which moved further and further away from concerns of surveillance. The weakness in policy discourse and the extent to which official agencies had become divorced from the changing ground realities associated with rapid technological change, in the 1980s, was evident in the case of India's international stance on the question of digital divide and problems concerning the role of IT and computers in communications. In 1981, the Parliament backed a bid by officials in the Department of Telecommunications (DoT) to the chairmanship of the ITU. Given the rising political divergence between the two Cold War rivals, and India's inability to engage more sincerely with alternatives like the IBI, meant that the candidate failed to make an impression on most other non-Western and African countries.[30]

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[28] I draw these conclusions from the biographical and official papers of Gujaral available at the NMML. http://nehrumemorial.nic.in/en/archives/catalogue-of-private-papers/institutional-collections.html?start=105

[29] The comments were made by Mohd. Milli, Secretary General of the ITU, see "Asian telecom community is planned" in The Times of India, 7 February 1975

[30] Indian representatives felt "let down" by the anti-Western coalition which backed out from supporting their agenda. See "Vital Factors In India's Defeat At ITU" in The Times of India, 12 October 1982

Meanwhile even as the telecommunications revolution powered by computers further entrenched the infrastructure inequality among the nations and people worldwide (Castells 2009), India's policy framework aligned to ideas of cultural nationalism. Even as it government began structural reforms in the telecom sector (Mukherji 2014), in 1989, it promptly ratified the new International Telecommunications Regulations. As per these norms, which were to have consequence for the privacy of transnational communications and information flows, member states had the power to 'stop the transmission of any private telegram which may appear dangerous to the State or contrary to their laws, to public order or to decency.'[31]

However, it was one thing to intercept telegrams or shut down ham radio operators and quite another to be able to decode encrypted data sent *via* Earth stations and shared through computer-based networks worldwide. With the rise of computer and IT-based networks in the 1980s (Castells 1999), telecommunications agencies required greater coordination with the IT experts who were largely focussed on software export and transnational data services at the time. Rather than focus on strengthening policy coordination, for instance by inviting amateur information technologists to engage in policy debates, India's telecommunications agencies limited their focus on issue of territorialising data flows and again relied on licensing guidelines under the Indian Telegraph Act that was passed over a century ago.

It is important to understand how these trends weakened the policy further and set a pattern in policymaking that became hard to deviate from in the coming years. In India's case, there were strong reasons to develop a new relationship between the DoT (licensing agencies) and the IT sector since the latter relied heavily on long-distance telecommunications 'gateways' to reach the world's markets while the former had an interest in developing IT capacity which was

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[31] International Telecommunication Regulations, International Telecommunications Union, Geneva, 1989 ISBN 92-61-03921-9

crucial for licensing of satellite-based transnational communication and data flows. In the 1970s, several opportunities arose for such institutional coordination as computer scientists came together under the Department of Electronics (DoE) began to take interest in India's domestic communications policy.

However, the presence of cultural nationalism ensured that the two never came together. In what could have been the precursor to the emerging internet technologies, a potentially radical idea of 'New World Informatics Order'[32] was proposed as an alternative to the Asian Telecommunity framework for inter-networking computers to link scientific labs in poorer countries like India with their peers around the Third World. This was the original ideal behind projects like ERNET (abbreviated for Educational and Research Network) which was envisioned by IT professionals in the DoE and quietly supported by amateur technologists active in the field of informatics and communications in the 1980s.[33]

With backing from some international donors, the DoE even introduced the internet to Indians as early as 1988, through a project linking elite technology institutions in India with similar nodes around the world. Again, they could only do so because they relied on their own IT expertise and used the domestic network of satellites that did not require them to take any permission or licence from the DoT. In the following decade, the Education and Research Network (ERNET) covered six publicly run technology institutes (most of the Indian Institutes of Technology) and on several occasions asked the telecommunications bureaucracy as well as the government to consider giving them the lead in developing wider computers-based social networks in India.[34] At the same time, computer scientists and IT specialists in the DoE could

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[32] On the history of the scientific and technological details of the "New World Informatics Order" see Sharma (2009)

[33] Based on fieldwork in Delhi, and interviews with early users of the internet most of whom got their first 'modem' based connectivity to the internet without any licenses. Also based on interviews with a range of industry experts and FOSS groups. January- May 2014. Delhi

[34] For official history of ERNET, see http://www.ernet.in/about/abouternet.html (Accessed September 2016.)

have been given a more central role in setting policies regarding international telecommunications since they had the already developed international 'gateways' through Software Technology Parks of India (STPI) consortium in the 1980s. [35]

But in the absence of coordinating ideas, nothing changed in terms of policies especially regarding concerns of surveillance online. While the technical wing of the DoE saw the potential of these gateways primarily as a means to 'flood in, and then flood out' software production in India,[36] they made little impact on the licensing of telecommunications services within India. Moreover, given their limited focus, to access these gateways for the IT Sector or state-sponsored research institutions, the DoT continued to set the licensing terms under the Indian Telegraph Act. The latter also insisted that any expansion into public communications services was their mandate alone. It took another decade, in 1995, when the Department of Telecommunications introduced by the first internet-based communications services and set new guidelines for those accessing such services online.[37]

However, in the meanwhile, many computer science experts and professional technologists began to ignore the politics of licensing and defected from the policy discourse. This switch, or 'disruption' from which this thesis draws its title, was initially restricted to a handful of amateur groups and went on to have a major impact of policy in the following decades (to be discussed in the subsequent chapters.) But in the 1980s, IT related activism remained weak and so did the debate around policy particularly around the problems of surveillance and safeguards of communication on these networks. Senior computer scientists at the DoE had already

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[35] ERNET was funded by UNDP ($6,000,000) and DoE ($3,000,000) for a five-year period. Details of the debate in policy circles is available in Telematics, June -September, 1997

[36] For a detailed discussion on the history of IT sector development in India, see Sharma (2009)

[37] Telematics India, "Internet, Courtesy VSNL", June 1995

cautioned the DoT officials that they had failed to keep up with the rapid changes in online encryption but the guidelines issued by licensing agencies simply followed in line with a framework that had not evolved since the colonial era.

This weak 'coordinating discourse' (Schmidt 2008) of India's communications policy indicates that when new ideas are absent, policy change may not occur although technologies change might have opened a window of opportunity. Part of the problem was that the DoE leadership had not offered any normative vision or even 'prognostic ideas' to encapsulate the future role of IT in telecommunications (Beland 2009). Their conception of ICTs did not appeal to anyone beyond the telecom bureaucracy either, which is not surprising given that at the time hardly anyone in Indian politics was aware let alone access such networks. As he argues, prior to policy framing comes the challenge of defining the problem and the discourse of policy and the political leadership took little interest in searching for new ideas at the time.

All through the 1980s, the Department of Telecommunications (DoT), finally separated from Department of Post in 1984, kept adding policy guidelines for licensing emerging online technologies under 'value added services' rather than recognise the social potential of computers and satellite-based in expanding telecommunications across India. Moreover, the licensing agencies focussed only on monitoring Earth stations that were brought under the guidelines issued under the Indian Telegraph Act, and mandated all software exporters using these 'gateways' to install monitoring facilities, often at their own cost. As per the guidelines users of these lines had to ensure that 'samples for inspection will have to be decrypted at the cost of the technology park.'[38] Instead of complying in practice, the IT sector firms simply

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[38] Rules relating to the operations of earth stations from Indian soil were constantly updated and the above quote is from those published in 1984. See Sharma (2009).

signed on licensing papers, with many software exporters opting to break as many as 25 different rules rather than deliberate the issue in the public.[39]

Communications policy and a 'scandalous' discourse of surveillance

At the time when computer networking had just started to converge various communications channels, in India, its constitutional and political context sustained a consensus around the Indian Telegraph Act of 1885 as the basic framework for policy. More than a century after it was first passed, even as structural reforms brought about a rapid change in the political economy of telecommunications in India, licensing guidelines and policy more broadly provided extraordinary discretionary powers to the state while marginalising concerns regarding surveillance. As had been the case with the mercantilist chambers in the British era, the private sector IT and telecom services interests readily agreed to the demands of the DoT, requesting procedural alterations rather than demand a change in the framework of policy.

Based in the city of Bangalore, most private IT sector firms were nurtured quite distinctly from the policies influencing the telecommunications sector anyways, through a strategy Evans (1995) has called 'embedded autonomy', and hence did not get affected by the decisions made at Delhi's Sanchar Bhawan. Meanwhile, communications policy also retained a cultural nationalist slant even as cellular and mobile based technologies transformed access to telecommunications services in India. Overall, technological change marked by the rise of satellites and IT hardly changed the realities on ground, and as one official responsible for monitoring international gateways, put it, they (IT firms) all 'knew that monitoring won't (sic) make any sense, but had to do it because the department (of telecommunications) people were insisting.'[40]

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[39] This figure was given by one of the officials associated with the software technology parks projects. *Ibid.*

[40] The official in charge of giving clearance for transnational data transfer acknowledged, "I said 'as the overseas communication authority, I am certifying that I am responsible for security' and they gave the license." Page 313. Ibid.

The only change that occurred was a further institutionalisation of a 'communicative discourse' (Schmidt 2008) which sustained policy in the domestic context, and I will now further elaborate on the consensus among leading parties to not let the structural reforms affect policy regime beyond a point. The extent to which old ideas and politics was entrenched into the licensing regime has to be understood not simply in terms of the hypocrisy of large IT sector firms, but in active politics and the way the political leadership across the board, from the Congress to its *Hindutva* and other regional nationalist opposition promoted the IT sector as a domain of economic strategy while ignoring its impact on telecom policy.

This is best demonstrated by the failure of the technology-savvy Prime Minister Rajiv Gandhi when he wanted to reform the process of acquiring individual licences for amateur radios in the mid-1980s. At a personal level, and as a trained 'ham' operator himself, Rajiv was an active votary of nurturing India's IT sector (Sharma 2009) and was opposed by political opposition when he introduced plans to introduce IT and computers across various sectors of the economy (Sharma 2009.) Even the telecommunications bureaucracy not only contested his structural reforms, but in the context of amateur radio policy ignored his request to reform the licensing guidelines, or as one commentator put it; they simply 'never warmed up to the idea.' [41]

It was not that the Prime Minister of India, with a majority in the Parliament in the mid-1980s, could not have changed licensing framework, after all he managed to initiate structural changes in India's telecommunications sector. But touching radio policy would have meant dealing with potential weakness in the policy framework including questions relating to the problem of surveillance. The fact was that, in mid 1980s, Rajiv Gandhi was under severe public scrutiny on the issue of phone tapping, and had little incentive to undertake a comprehensive review of

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[41] Fredrick Prince "My ham buddy, RAJIV GANDHI" in The Hindu, 12 June 2013

the relevance of the Indian Telegraph Act in the era of computer-mediated networks, let alone open a debate on the legal validity of clauses that allowed lawful surveillance.

The metaphor of License Raj provides an apt metaphor for the scenario in the 1980s. Not only does it eloquently sum up the situation that existed at the time. Firstly, by relating to the idea of British *Raj*, it underscores the absence of any concern for citizens' rights maintained the status quo. It also indicates, in the play of words, the role of cultural nationalist ideas in weakening the policy enough to allow certain corporate interests to take advantage of reforms to create a political economy of telecommunications reforms that worked in the favour of the incumbent party in power. Ever since the Emergency period, none of the major parties debated the problem of surveillance in the Parliament even as instances of routine 'phone tapping' came to came to be publicised in the context of mass politics of cultural nationalism from time to time.

The extraordinary misuse of the laws for political vendetta reached its zenith in the 1980s, and what was once only a 'dirty tricks' department came to be seen as an essential part of Indian politics. Journalists reporting on national politics were particularly well aware of the wrongdoings of Delhi's political elites, calling it the 'worst-kept secret' of Indian democracy.[42] But few opposition leaders, or mass media outlets protested against it in the Parliament or beyond. Only a handful of socialist groups, particularly those politically opposed to the Congress, like the Praja Socialist Party, raised the question of privacy rights of the citizens in the legislature.[43] For most part, party political elites ignored activists' demands even as they publicised attacks of their own privacy through selective leaks to the press.

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[42] For an account of how telephone tapping became a widely ridiculed aspect of India's democracy, see "Telephone Tapping Abuses Privacy" Sardesai, Rajdeep in The Times of India, 23 April 1990

[43] The only party to raise the issue in the Parliament was the Praja Socialist Party (PSP) which joined several journalist and civil liberties groups arguing that the Indian Telegraph Act amendments would threaten the freedom of the press. See "Threat to freedom of press" in The Times of India, 4 August 1970

This trend was compounded by the unscrupulous mass media discourse of scandal and fear mongering that framed problem of surveillance as an instance of personal vendetta. Throughout the 1980s and 1990s, in spite of a number of instances of scandalous revelations about interception of communications reported in the press, there was no substantial debate within the Parliament. Ironically, at a time when computer networking could have revolutionised India's telecommunications, Members of Parliament debated laws to expand the scope of the surveillance of postal networks in the country. In 1985, following a series of public revelations about politically motivated surveillance, a legislative amendment added 'sovereignty and integrity of India, security of the State, friendly relations with foreign country or public order for preventing incitement of the commission of any offence' to Section 26 of the existing text of the Indian Post Office Act.[44]

Rather than publicly, and sincerely, deliberate on the changing social and technological context of computer-mediated communications and need for privacy for all citizens, the Parliament passed amendments in the laws that made a spectacle of policy while the mass media debate focussed entirely on scandalous allegations and counter-allegations, often emerging through selective leaks of conversations among the political elites in Delhi. One such case involved a prominent Janata party opponent of Indira Gandhi, who accused her of tapping over 300 lines, a list that also included all the important functionaries of the state.[45] But in 1989, when a coalition of Third Front rose to power, with the support of the Congress, it did not initiate a systemic review of this instance of surveillance, let alone debate the presence of such

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[44] The draft legislation of the Indian Post Office *(Amendment)* Bill was approved by the Parliament in 1986, but was only given formal consent by the President in 1989. "Telephone Tapping Abuses Privacy" Sardesai, Rajdeep in The Times of India, 23 April 1990

[45] The allegations were made by Ram Krishna Hegde, a Janata Party leader from Karnataka, who accused her of tapping over 300 lines including those of prominent officials of the state. See "Hegde's charge of mail interception" in The Times of India, 22th August, 1981

provisions in law. Ironically, the Congress leadership cited surveillance as a primary reason for withdrawing its support to the government a few months later.[46]

Besides a handful of socialist groups, all major opposition parties that accused Indira Gandhi of misusing discretionary powers under the rule of law followed in her steps. Moreover, increasingly the debates took a consensus-based formula where themes of cultural nationalism and personality-based politics dominated substantial question of communications policy. The trend refuted the claims made by the first Home Minister Patel who at the time of India's independence had argued that popular government would also be more accountable. Instead party politics of communications policy in the 1980s perversely strengthened the rationale retaining colonial discretionary powers, a trend that only reflected in the growing litigations in the courts.

Privacy in courts and *Hindutva* beyond

In 1989, the year India signed the new ITRs; it was revealed that the Presidential phone lines were among those kept under surveillance by the state's telecom agencies.[47] It reflected the extent to which surveillance debates had dissociated with realities of communications where nobody seems to know or care about due process or policy any longer. Only a handful of avowedly socialist and civil liberties campaigners, prominently retd. Justice Rajinder Sachar took up issue in the public arena and courageously led a public battle for reforms in the courts. Along with Left-leaning journalists, Sachar raised the issue in the public arena; not just as a

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[46] Congress cited police surveillance outside Rajiv Gandhi's house as the pretext to bring down the Janata Dal government in 1991.

[47] The reports were attributed to the Central Bureau of Investigations, see "Scandalous Revelations" in India Today, 13 September 1991

former associate of socialist politicians but also as a lifelong patron People's Union for Civil Liberties.[48]

In a sign that cultural nationalist and even *Hindutva* politics had taken over the deliberative institutions, PUCL campaigns were never given support in the Parliament and concerns raised by Sachar remained on the margins of the debate around telecom restructuring which gained prominence in the 1990s. Privacy activism became restricted to legal advocacy even as *Hindutva* ideas gained prominence in the post-Emergency era. Campaigners like Sachar had to wait for almost two decades after the Emergency before their activism gained any public attention and eventually their efforts led to a major review of the Indian Telegraph Act by the Supreme Court of India in 1997. It came in light of public revelations by PUCL which exposed the extent to which surveillance was now carried out without due process of law by the Union government agencies.

In 1994, an extraordinary report published in the Left-wing activism led Mainstream Weekly magazine exposed several instances of surveillance being ordered without even the basic procedures that were required under law. The report, quickly picked up by legal and constitutional advocates like Justice Sachar and the People's Union for Civil Liberties (PUCL) led to a landmark Public Interest Litigation being filed in the Supreme Court. In confirming the dismal state of privacy, the report showed that 'various authorized agencies are not maintaining the files regarding interception of telephones properly.' Moreover, in some cases agencies were 'not maintaining even the log books of interception.'

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[48] For a brief history of PUCL involvement in Privacy related activism see Parisk, S. 'Taking Human Rights Forward: PUCL judgments" Vani Prakashan, Delhi

This reality reflected the extreme weakness in state's policy coordination and the gap that existed between the telecommunications agencies in charge of licensing of firms and the thinking that drove policy debates in the domestic and international fora on the problem of surveillance. The most serious charges, the report showed, were that in many instances the '(interception) of the phones were done beyond the authorised part' and often 'exceeded 180 days period and no permission of Government for keeping the telephone under interception beyond 180 days was taken.'[49]

The last of these facts was crucial, for it proved that the telecommunications agencies were taking orders directly from political leaders who bypassed their own government and official machinery for surveillance. This accusation was hurled often but no party ever acknowledged it led alone address it in the Parliament. In other words, besides the weak coordination discourse of licensing, a lack of debate had ensured that political leaders could operate with impunity and influence policy through informal means rather than policy. In a way, the scenario mirrored the situation of involving large IT sector firms, where direct access to political elites could ensure that no harm would come to them even as they defected from the licensing guidelines laid down under the Indian Telegraph Act.

Unsurprisingly, instead of agreeing to judicial oversight of state surveillance or initiating a constitutional review of the Indian Telegraph Act, as PUCL argued in its litigation, the Congress leadership sought to restrain judicial activism. Its counsel, not ignoring the scale of the scandal promised to plug surveillance related loopholes in communications policy. He proposed to undertake a comprehensive review of the law and promised a legislation similar to the one passed a few years ago in England, the Interception of the Communications Act of

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[49] The revelations were made by a group of media activists and published in the civil rights publications Mainstream. Available in the PUCL v State of India, Supreme Court of India, 1996(9)

1985. Eventually, the Supreme Court agreed and stated 'that in the absence of any provision in the statute, it is not possible to provide for prior judicial scrutiny as a procedural safeguard.'[50]

In seeking to goad the political leaders to take up policymaking, the Supreme Court judges had argued that it was 'no doubt correct that every Government, however democratic, exercises some degree of sub-rosa as a part of its intelligence outfit but at the same time the citizens' right to privacy has to be protected from being abused by the authorities of the day.' However, in the end, the Court had deferred the substantive question of policy to the Parliament although it did underscore the challenge for the political leadership that read: 'The Act was enacted in the year 1885. The power to make rules under Section 7 of the Act has been there for over a century, but the Central Government has not thought it proper to frame the necessary rules despite severe criticism of the manner in which the power of Section 5(2) has been exercised.'[51]

But at a time when the Congress was losing is political base in national politics, no reforms followed for the next decade. In the absence of an activist political base, the Hindu nationalist parties that came to power in 1997 ignored the issue altogether and made every effort to thwart the work of organisations like the PUCL which at the time were actively resisting the communalisation of Indian society by *Hindutva* forces.[52] For the cultural nationalists, particularly the *Hindutva* parties the absence of debate or clarity on limits of the state under the Indian Telegraph Act suited their ideology well. But in the absence of formal legislative initiative on the subject, the promise to enact and revise existing laws was also ignored once the BJP-led government took power for the first time in 1998. This looked like a moment ripe

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[50] Available in the PUCL v State of India, Supreme Court of India, 1996(9)

[51] Ibid

[52] In 1996, at the time when the case was being heard, the Supreme Court was also hearing a case against *Hindutva,* which had become a pivot of PUCL's activism as well. Incidentally the Supreme Court decided against the activist seeking a ban on *Hindutva*, for PUCL response see: http://www.pucl.org/from-archives/Religion-communalism/sc-judgement.htm

for dissent, even as the status quo around surveillance looked unshakable as far as national politics was concerned.

Conclusion

As highlighted in the previous chapter, until the 1990s the debate around transnational broadcasting went hand in hand with a weakening of coordination in media policy and what was true for self-regulation in the press was also the case for communications policy. In this chapter, I show how this weakening had a direct consequence for citizens' communication privacy particularly in terms of safeguards against the discretionary powers of the state allowing routine surveillance of communication. On their part, the private sector interest in the IT sector, much like the mercantilist chambers of commerce and allied interests at the time when telegraph laws were first formulated in early 20th Century, remained acquiescent as far public policy and deliberations were concerned.

But the discrepancy between the cultural nationalist assertions and lack for reform became more and more difficult to manage with the further rise of computer-mediated online networks, and with them the rise of new ideas. Just as mass media served both a site for building cultural nationalist paranoia about 'eyes in the sky' as well as means to expand the mass communicative discourse that emboldened rather than challenge the 'worst kept secrets of India's democracy.' It was this absence of ideas which sustained the consensus against citizens' rights online. The role in media and public policy at large of FOSS technologists, who had been left out in the politics of communications until the 1990s, became more central with the emergence of new media and ended the consensus which is analysed in the subsequent two chapters.

Chapter 6

Disrupted: Internet and the new politics of media policy

In the last two chapters, I discussed how politics of media policy in the post-independence era institutionalised a weak discourse of self-regulation that routinised self-censorship and surveillance of communication. Instead, an aggressive communicative dimension emerged, making media policies prone to Hindu nationalism that was ascendant in the 1990s. The resulting status quo marginalised deliberative institutions like the Press Council of India and placed the interests of media conglomerates above those demanding greater autonomy for public service journalism. Instead of nurturing a policy discourse that could address problems in self-regulation, *Hindutva* provided a template that ensured that demands for reform remained unaddressed even as private sector developed substantial interests in the media system.

In this chapter, I turn my focus to the more recent debates around new media that have seen a shift with substantial policy debates around themes of self-regulation, particularly in the context of liabilities for online intermediaries. If in the past, *Hindutva* ideas and cultural nationalism linked media policy to mass spectacle and cultural nationalist ideology, now alternative ideals of autonomy, including technology-inflected proposals for safeguarding online anonymity have reinvigorated public arena and led to gradual changes in policy. More crucially, the change has been accompanied by a revival of independent media activism, with growing participation of the Left political parties and social movements which had remained marginal in mass media era.

In conceptual terms, I unpack the rise of autonomy and anonymity in terms of an alternative 'coordinating discourse' (Schmidt 2008) that is able to relate question of self-regulation to a new politics of media policy. I show how this politics is driven by ideas related to FOSS

technologies and relied on the role of technologists who have reinterpreted the internet related change in more social and political terms than had ever been the case in the past. In particular, the chapter focusses on the period bookended by the passage of the Information Technology Act (IT Act) in 2000 until the crisis that engulfed the debate around intermediary liability and the subsequent change in policy in the early 2010s. The chapter closes by showing how the divergence between new and old media agenda has generated new contestations with FOSS technologists disrupting the discourse of policy, both in the Parliament and beyond.

Cultural nationalism after media convergence

As online technologies began to proliferate in India's media system, initially the policy discourse fixated on broadcasting with the *Hindutva* right-wing and well as their political rivals largely overlooking the issue of new media. In the late 1990s, as a discourse of cultural nationalism blurred the line between ownership and editorial and successfully brought electronic media capitalists within the ambit of existing policy framework,[1] the advent of digitalisation and online networks provided further opportunity to combine diverse media under a common policy rubric. This discourse was again framed in terms of an IT oriented policy paradigm of 'Information, Communications and Entertainment' (ICE) and deliberated by *Hindtuva* aligned media groups like Zee that saw the potential of technological change largely in terms of ever more massification of Indian audiences on mega 'multi-media' platform.[2]

The fact that the BJP had recruited prominent broadcasters including Zee TV's proprietor, into the ranks of its treasury benches bolstered the *Hindutva* parties' view that they could also keep their control over the emerging new media. Unsurprisingly, rather than debate question of self-

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[1] The Original 'News Trader': The Irresistible Rise of Subhash Chandra", in The Wire, 16 March, 2016

[2] Union government had constituted National Task Force on Information Technology and Software Development which conducted discussions with many of the leading TV news proprietors including with Zee TV's Naresh Chandra. Based on interviews conducted with journalists in Delhi. See Appendix 2 for details.

regulation in the context of broadcasting or its convergence online, the BJP-led National Democratic Alliance (NDA), which came to power in 1998, put the legislative review in cold storage even as it tried to address the problem of digitalisation in line with the ICE framework. Eventually the Broadcasting Regulation bill lapsed with the dissolution of the government same year, but in 1999 as the party came back to power with more substantial majority, it framed the emerging online 'information services' and recast the debate in technological terms, using a discourse of information technology that could fit the technological change in the policy template that had allowed it successfully use mass media to propagate *Hindutva* propaganda at home and abroad in the 1990s.

At the time, in late 1990s, several World Wide Web-based websites came to be defined merely as 'information services'. Amongst the IT sector investors were the Hyderabad based IT firm Satyam which invested $100 million in a single portal Indiaworld.com. Murdoch's Star group along with financial backers, invested over $50million in Indiya.com but the site shut down within 13 months of the launch. Smaller investments were also made by India's print media groups like The Bennet Coleman group which had so vociferously campaigned against allowing 'foreign' interest in newspapers but were quick to get on sites based abroad. As the number of web-based portals and news sites grew rapidly in the 1990s, this 'wave of investment' from private sector fuelled a media 'dot com boom' (Balakrishnan 2012). However, it did not change policy, and opened an opportunity for *Hindutva* forces to reach out to non-resident Indians abroad who constituted a majority of readers of Web-based news about India at the time.[3]

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[3] Information gleaned from interviews with 'start-ups' investors from the dotcom era, particularly those in Bangalore many of whom are also active members of FOSS related campaigns in the context of media policy. See Appendix 2.1 for more details.

Rather than address these changes under through broader public debates, *Hindutva* leadership now took to a tactical framing approach by dividing its mass media discourse of cultural nationalism from its new media strategy. In the latter's context it defined problems increasingly in terms of technology, while trying to exploit the reach of online websites for spreading propaganda online through its IT Cell.[4] In a tactical switch in its cultural nationalist discourse, rather than target 'foreign' origins of the internet, they sought to avoid a public debate around online information services and narrowed the context to the role of IT to serve its wider ideological agenda. This was evident in the course of the Kargil conflict in 1999, the NDA government's Ministry of I&B framed news from Pakistani media in terms of 'invasion from the skies' but left aside the question regulating new media content online. As Thussu (2002) has argued, it was the 'first televised conflict in the Indian subcontinent, (and) made the governments in the region aware, for the first time, of the power of the visual media ...' (ibid: 207)

With the online networks still only accessed by elite audiences in India and abroad, the NDA government did not attempt to frame it in terms of 'foreign' influence, even as it sought to publicise the 'war of words' between India and its neighbour through mass media. When a Pakistani website, of the Dawn newspaper, was blocked in India by state-run telecommunications licensing agencies, the BJP-led government underplayed its role in the public discourse. Instead it blamed the 'patriotic fervour' on Videsh Sanchar Nigam Limited officials rather than ratchet up its framing as part of a culture war.[5] The tactical line again demonstrated that the Hindu nationalist leadership was not only keen to take advantage of new media but evade a public debate on the need for policy reforms. By framing media policy in

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[4] Based on interviews with journalists in Delhi I could locate the origins of the IT cell to the 'dotcom boom' in the late 1990s. Over the years the faces in this cell, located in RSS headquarters in Nagpur have changed, and as of now it lists the current BJP leadership at its 'inspiration': https://bjpitcell.org/inspirations.php (accessed June 2018)

[5] Varadarajan, Siddharth "'Dawn' website blocked as VSNL plays Big Brother," The Times of India, 4 July 1999

terms of IT law, the *Hindutva* groups sought to co-opt online news portals within the weak and nearly non-existent policy discourse while at the same time exploit online networks for recruitment and funding of their movement abroad.

Not that there was no other option available. Firstly, there was a formal legislative draft, meant to address the 'convergence' between the new and old media, which the NDA government overlooked. In 1997, before the NDA government took charge, a 'Task Force' on Information Technology had proposed setting up an IT expert's committee to deliberate on a Communications Convergence Regulator for India which would consolidate media and communications policies under a single authority. The committee, which also included prominent legal and constitutional experts, argued that with the rise of 'convergence' was reflected in the growth of digital media and networks across various media and this needed a similar convergence in law. The draft legislation drew its ideas primarily from the framework adopted by the American Federal Communications Commission in the United States but also other Asian nations like Malaysia which had taken up the challenge of digitalisation in their 'multimedia' system.[6]

As Pickard (2007) argues, the emergence of FCC in the US was a result of a long struggle in which progressive ideas lost to 'corporate libertarian' ideology. In India however, digital capitalism was hardly a match to the ideational complexities that tied its media system to cultural nationalist politics. The draft proposal threatened the role of existing institutions like the Ministry of Information & Broadcasting that was to be replaced by a new 'super regulator', the Communications Commission of India. Such a shift was hardly a priority for the Hindu nationalist leadership nor was it a major concern for its primary opponents at the time who

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[6] Communications Convergence Bill, 2001, draft from the Department of Telecommunications, Ministry of Communications and Information Technology (IT), Government of India

were focussed their attention on the existing Broadcasting Regulatory Authority legislation that had been pending under the Ministry for Information and Broadcasting since the BJP-led government came to power in the late 1990s.

However, given their role in evading a comprehensive policy, the weakness in policy coordination and turn towards IT related laws to frame new media policy put the focus sharply on the Hindu nationalist agenda that had long marginalised concerns regarding hate speech and self-regulation more broadly in the previous era. Since the early 1990s, online networks allowed *Hindutva* leadership to reach out to diasporic communities in the West for funding and mass propaganda online. Lal (2003) and Appadurai (1995) have argued that the *Hindutva* groups were among the largest audiences of online Indian website as well as online forums carrying hateful content. The growth of online activism by US-based NRIs and their support for *Hindutva* online could have had a direct impact on BJP's media policy at home.

By the late 1990s, just as its political wing, the BJP rose to power in Delhi hundreds of online *shakhas* opened online which brought a new radical edge to the Indian cyberspace (Therwath 2012, p. 561). As Chopra (2008) has argued, the emergence of 'online technospaces' provided an alternative arena for building ideological discourse for cultural nationalism. It is important to recognise that in the domestic media policy context, it also meant the *Hindutva* leadership from acknowledging its communal agenda which had in past had remained hidden in plain sight as it were, behind the loud bluster against 'foreign' influence through which the fascist elements of this movement routinely targeted cultural and religious minorities and their media forms. All the while, as discussed earlier, it sustained the weak discourse of media policy which ensured that problems of hateful propaganda were never a subject of media policy debates, rarely if ever making it a subject of legislative debates.

Maintaining this distance between their mass propaganda online and coordinating discourse of policy was central to their tactical advancement of IT related laws in the Parliament too. It was within this particular context that more comprehensive debate on convergence legislation was ignored by the BJP government which instead promoted a new IT related law to target online 'intermediaries' as an alternative to media policy. In 2002, the then Minister for Information and Broadcasting Pramod Mahajan, a political strategist within the Parliament who at the time also held the portfolio for the newly constituted Ministry for Information Technology, argued that 'there was no hurry' to introduce convergence law. His government kept the legislation pending until it lapsed with the dissolution of the Parliament in 2004.[7]

Moreover, in evading the convergence debate, Mahajan also admitted that a crucial issue was also 'whether the super regulator, who will control both the content and carriage of information, is desirable or not.'[8] This also had a major effect on ongoing debates around communications policy, which I shall discuss in the later chapter. However, it is important to underscore the link between media politics and political economy of telecommunications here, and the way these two converged with the emergence of the internet in the late 1990s. But in early 2000s, there were still few smart mobile handsets available in India, and less than one in every 500 Indians had a personal computer. Hence, mobile industry related interests remained marginal in relative terms with the far more commercially successful electronic mass media.[9] In the latter's case, a cultural nationalist consensus prevailed as private sector interests continued

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[7] "Convergence Bill not before May 03: Mahajan', Rediff.com, 2 December 2002

[8] Ibid.

[9] The influential industry body IAMAI was formalized in 2004. Since then Google, Facebook and a host of other digital and online media platforms have joined this association. Google also sponsors its annual 'Digital India Summit. For details see: http://www.iamai.in/aboutus/our-members (accessed June 2018)

backroom negotiations with the NDA government to ensure that the legislative initiatives around broadcast policy were kept pending until the government changed hands in 2004.

Media policy and evasive politics of information technology law

The tactical ideas and evasive discourse of IT in new media policy worked like 'switch men of history' (Weber 1946, quoted in Schmidt 2002, 2008) with the subsequent Congress-led and Communist-backed United Progressive Alliance (UPA) government finding it harder to reframe the debate in broader terms than those used by their *Hindutva* predecessor. In the early 2000s, rather than opening a wider debate on the convergence across digital media, NDA government framed the challenge of online media in terms of technology and had relied on a narrow discourse of information technology that linked the question of self-regulation to practices of IT through a new legislation. Hence over the next decade, policy debates were largely conducted in the context of IT related laws but rather than bring about a consensus, it provoked a new wave of public activism which not only led to a shift in policy but also challenged the *Hindutva* dominance of media policy agenda.

It all started in the year 2000, when the convergence-related legislation was ignored by the BJP-led government, and instead it took up a new law, the Information Technology Act (IT Act) which was passed in record time in May that year. The original ideas behind the legislation was primarily to simplify online commercial transactions, based on a United Nation's document prepared at the time for countries around the world seeking to legislate the growth of online transactions in their economy.[10] But in India it had implications for the discourse of media policy. Here the case reflects the theories of policy-making about ideas having 'unintended consequences' (Merton 1936) which included energising deliberative institutions

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[10] In 1996, UNICTRAL had issued a model law for online commerce and the basic structure of the IT Act followed this model. The Model Law on Electronic Commerce (MLEC) laid out the principles to enable and facilitate commerce conducted using electronic means by providing national legislators with a set of internationally acceptable rules". Available here: www.uncitral.org/pdf/english/texts/electcom/V1504118_Ebook.pdf (accessed Jan 2018)

and ideas from hat remained beyond the party-political consensus at the time. For the BJP leadership, enthralled by the potential of using the internet to win the support of NRIs, the IT Act was an ideal opportunity to bypass a broader legislative debate on the problem of self-regulation in the internet era.

In particular, under Sections 66–69, the IT Act dealt with technological and security issues of 'hacking' and in enforcing the law the *Hindutva* leadership saw it as an opportunity to control the circulation of content online.[11] These sections of the law had some vague references to explicit content regulation and legally it could only be used by monitoring agencies to crackdown on forms of abuse rather than rely on formal censorship. However, rather than clearly spelling out the potential for the misuse of such laws, the BJP leadership tried to evade the debate in the Parliament lest it expose the problem of self-regulation online, which the Minister for Information and Broadcasting was keen not to address in public.

Instead, in the course of the Parliamentary debate, the *Hindutva* leadership went out of their way to avoid any debate on the question of media policy. First, the I&B Minister Mahajan timed the introduction of the bill to coincide with the end of session of house in May 1999, and when the opposition called out their ploy, he asked them to desist from turning the 'question of information technology' into an issue of 'prestige or ego'.[12] When opposition MPs called for wider deliberations, raising doubts about hacking and the implications of criminalisation of online practices, the Minister responded by arguing the debate on the IT Bill should not be conducted as 'some kind of a political discussion.' Dissuading the opposition parties not to

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[11] Section 66 of the Information Technology Act (IT Act) 2000 barred "hacking" and its use in ""knowingly or intentionally conceals, destroy, or alter any computer source code used for a computer, computer programme, computer system or computer network, when the computer source code is required to be kept or maintained by law for the time being in force.

[12] "Regarding IT Bill 1999" Lok Sabha, 12 May 1999. Lok Sabha archives

politicise the issue, the BJP leadership reiterated that the legislation should be passed quickly for it would 'usher the 21st century in this country.'[13]

The question of new media and self-regulation by online information service and circulation of digital content was left out entirely. Only when some MPs from Communist Party of India (Marxist) pointed out that there had been little debate on the prospect of the law being used to censor content, especially given the Section 79 of the law which introduced 'liabilities' for online intermediaries, the BJP leadership overlooked their comments. In the Parliament, the veteran CPI (M) MP Somnath Chatterjee, who at the time was also the Chairman of the Standing Committee on IT, publicly accused the government of evading its responsibility, concluding with an ominous warning: 'Let us not rush through this.'[14]

In discursive institutional terms, this evasion rather than address question of digital convergence under the IT Act set the pattern for more contentions than consensus. The challenge for the anti-*Hindutva* United Progressive Alliance was that it had to reckon with the growing polarisation and hateful content online while at the same time coordinate a response within the contours of the IT Act since a wider debate of media policy wasn't on the cards. Moreover, given its relative disinterest new media, largely due to the fact that it did not use such networks for mass polarisation, meant that the UPA leadership overlooked the question of convergence when it took over the reins of the government in 2004. Also, little attention was given to the need for comprehensive policy reform given their commitment to continuing with the telecom reforms that they had initiated since the 1980s.

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[13] Expressing their discontent over the manner in which the bill was not allowed to be debated Congress leadership referred to the "I Love You" virus, which they argued could spread to the Indian web. Lok Sabha archives "Regarding Information Technology Bill 1999" Lok Sabha, 12 May 1999

[14] CPI (M) MP Somnath Chatterjee was appointed the head of the committee in 1999, although he was not a member of the Business Advisory Committee which deliberated on the draft of IT Act. Comments from the debate in the Lok Sabha, ibid.

That new media policy was based on weak discourse of information technology also meant that the Congress leadership saw little scope for the kind of cultural nationalist debates that had sustained the consensus around mass media in the 1990s. Moreover, the problem was compounded by the absence of any new ideas coming from within party political organisation, which could have helped the Congress engage with the various online intermediaries. The UPA also ignored these possibilities in its use of the IT Act which only had one provision for a Cyber Regulations Advisory Committee (CRAC) that was meant to advise the government 'framing the regulation under the Act.'[15] Instead of cultivating such coordinating platform, the Congress failed to convene a single meeting of CRAC in the full decade after it came to power in 2004.[16]

However, beyond the party-political domain, where various Press Commissions and deliberations had yielded a consensus in the past, as recounted in Chapter 4 and 5, in the early 2000s the progressive alliance turned towards executive orders and IT security agencies to address the growing problem of hate speech online. It included security agencies like the Computer Emergency Response Team-In (CERT-IN) in the ambit of media policy and used it execute ad-hoc censorship that were to be carried out by online telecommunications service providers rather than enacted through the weak policy discourse of self-regulation. In 2004, for instance, following reports of religious hate content online, the UPA government initiated a crackdown against online sites, a move that provoked a new discussion among activists and technologists on the efficacy of the existing framework for self-regulation.[17]

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[15] As per Section 88 of the Information Technology Act, 2000

[16] The failure to convene the CRAC even once after the IT Act was passed became a highly discussed subject among Internet activists. A decade after it was first proposed, by 2012 the Centre for Internet and Society launched a public campaign to include more internet users in it. In a Right to Information petition t was revealed that "no representation of Internet users, citizens, and consumers — only government and industry interests." See "No Civil Society Members in the Cyber Regulations Advisory Committee" on www.cis-india.org, 9th January, 2013, http://cis-india.org/internet-governance/blog/cyber-regulations-advisory-committee-no-civil-society (accessed September 2016)

[17] "Bid to block anti-Indian website affects users" in The Hindu, 23 September 2003

More crucially, rather than targeting specific content online, the cybersecurity agencies shut down the online blogging platform of one of the largest intermediaries in India at the time. Their lack of policy literacy, let alone political or legal understanding of the issues, meant that the technical agencies like CERT-IN became prone to public criticism. Instead of 'ushering the 21st century' in India, the IT Act under the UPA became a source of new polarisation beyond the policy domain, and in particular amongst online bloggers and new media activists who began to take more and more interest in policy and the role that technological change could play in reforming the framework for self-regulation.

These ideas however were often in sharp contrast to the way media policy had relied on cultural nationalism in the past. Rather than the weak and evasive deliberations that marked the functioning of institutions like the Press Council of India, new media activism underscored themes of political economy and used ideas from Free and Open Source Software (FOSS) based technologies as a mean to coordinate policy. Moreover, they challenged the reliance on cultural nationalism as the basis for determining contours of self-regulation in the press, a change that was by no means easy to accept either to political elites or mass media given that the media system as a whole in India had developed along these lines.

At a basic demographic level, new media policy activism drew a far younger group of citizens and bloggers who came from a generation that had few institutional linkages or networks with the old media sector.[18] In my interviews with participants in online forum around media policy, like the India- GII,[19] I could sense at initially the discontent emerged around themes beyond media policy *per se*, as in many other parts of the world; bloggers began to frame the conflict between the new and old media mostly in the context of failures of party politics to address

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[18] "Blogging India: an MSN and Windows Live Report", released 28 November 2006

[19] For India-GII related archive and documents see Appendix 1.

social issues. In the early 2000s, it included forms of online activism that targeted the 'Mainstream Media' (MSM), a derogatory framing of the press in sharp contrast to the more 'social media' online. As one prominent blogger and new media activist argued, in the mid-2000s online '(mainstream) media bashing was the in thing. News stories and opinion pieces were 'frisked' – rebutted point by point. The Times of India was a favourite target. A 'Google bomb' was created so that if you searched for Times of India, Google asked you, 'Did you mean the Slimes of India'?'[20]

However gradually, these debates also drew their strength from socially committed technologists, and as in many other parts of the world (Kelty 1998), ideas relating to Free and Open Source Software came to form the basis for a new discourse of media policy. Unlike the older media hierarchies that differentiated between editors and proprietors from newspaper readers, their activism challenged such categories and took a more sociological view technological change. Initially, their influence in policy was limited to criticising efforts to bring online blog in the ambit of existing framework of policy which, as discussed earlier, often restricted policy debates to theme of restricting 'foreign' rather than hate content in mass media.

For instance, in mid 2000s, as and when the Congress-led UPA government blocked hateful content online online bloggers argued against that premise that online content had 'the potential to inflame religious sensitivities in India and create serious law and order problems in the country.'[21] Moreover, they put the focus on the absence of any clear policy, which had led the

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[20] Vij, S. " A brief history of the decade that saw social media redefine the 'mainstream' news outlets" on Scroll.com, 26 Dec 2014, http://scroll.in/article/697271/a-brief-history-of-the-decade-that-saw-social-media-redefine-the-mainstream-news-outlets (accessed September 2016)

[21] This was the case in 2006, when the UPA government imposed a ban on a documentary that included a "two-page write-up containing extremely derogatory references to Islam" which it was argued could lead to hurting the sentiments of the community in India. But just justifications were widely decried, including by on popular technology blog "Gigaom.com" "India Lifts Blanket Ban on Blogs; Only Certain Subdomains To Be Blocked," 20 July, 2006.

UPA to take recourse to using cybersecurity agencies like CERT-In rather than rely on public deliberation that emphasised how themes of law and order being related directly to communalisation of politics. In turn, this led amateur bloggers to question the consensus in mass media policy, and in 2006 hundreds of bloggers came together to argue that no government should be allowed to have such powers; 'in fact, there should be no book they will ban, no infringement on freedoms at all ever again.'[22]

These ideas did not represent a policy discourse, but rising contentions had put the focus on the limits of existing discourse of self-regulation. As per a discursive institutionalist approach, these ideas reflected a challenge to the communicative discourse that had long sustained policy consensus around existing restrictive and coercive institutions of self-regulation. The public assertions even on a subject such as religious hate speech marked an important phase when debate about press freedom gradually paved the way for reframing of events in terms that were far less polarising and less concerned with themes of cultural nationalism. The UPA government however did not immediately recognise them as valid arguments, and part of the problem was the sheer lack of understanding of the social dimensions of information technology, which was also the case within the Left bloc parties. These parties, with their deep history of anxieties relating to communal politics, initially supported the crackdown on online hate speech, but gradually came to question the use of censorship through CERT-In as a legitimate part of media policy.[23]

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[22] A collection of reports on the Blogging ban carries this quote by a collective called "Bloggers Against Censorship".
"Indian bloggers fight government censorship", Guardian.com, 19 July 2006
Available here: https://www.theguardian.com/news/blog/2006/jul/19/post180 (accessed September2016)

[23] This is based on my interactions and interviews with CPI (M) related FOSS groups and activists who were in favour of regulation but did not want any kind of censorship or state control. See Appendix 2.1. (Interviews in Delhi in January 2014 – Jan 2015.)

Comparing the debate on broadcasting regulation with IT Act

Meanwhile in the more formal legislative policy domain, particularly concerning the question of regulating online media firms, the debate continued within the framework of the IT Act with questions of intermediary liability dominating deliberations in the mid-2000s. The stakes in the debates rose significantly with the rapid expansion of wired broadband and mobile data services and access to online networks became a priority within the telecommunications policy.[24] The subsequent rise of mobile-based multimedia services, especially with the emergence of Web 2.0 in the mid-2000s, further blurred the division between online information services and news media with the transition from analogue to digital content production and distribution forcing a fresh debate around media policy at large.

The 'critical junctures' that came in the course of policy change (Schmidt 2008, Beland 2009) included the rise of user-generated digital content and use of 'sting videos' in particular both in electronic news broadcasting as well as in the context of online new media. The policy attention to the weakness in terms of liabilities for digital intermediaries who were often seen complicit in the broadcasting and distribution of content on-air and online. If we compare the policy debates around new and old media that followed these trends and technological change heralded by the rise of the internet, it is easy to see how the communicative *Hindutva* laden discourse enabled the consensus to prevail in the context of electronic mass media but new ideas challenged it in the context of new media.

The earliest debate emerged in 2001, when a whistle-blowing website Tehelka.com released digital recordings exposing corruption deals in the BJP-led NDA dispensation, and used the internet as well as mass media to share the secretly filmed conversations to audiences around

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[24] TRAI made the accelerating the growth of Internet a pillar of telecommunications planning and initiated several measures to introduce broadband services on a priority basis. See "Consultation Paper on Accelerating Growth of Internet and Broadband Penetration" TRAI, New Delhi November 28, 2003

the world.[25] In a reflection of its attitude towards media autonomy, the BJP leadership hounded the editor whose website produced the tapes and arrested him under charges of defamation and financial irregularities, a practice used extensively since the Emergency era. From interviews that I conducted with many on the Left side of political spectrum in media policy, I was able to see how this proved to be a moment to turn a page and return to a rights-based framework. Although it took another four years, until the UPA returned to power in 2004, to get the ball rolling for a comprehensive review of both in the context of broadcast regulation legislation as well as the intermediary liability laws under the IT Act that remained the cornerstone for new media policy.

Another reason for the IT Act remained central to these debates was the rise of online market and trading in Multimedia Services (MMS) videos, which provoked a broader backlash in the public arena against the weakness in media policy. In 2004, in one such shocking instance, a video involving school going children was uploaded online and distributed by several websites. In the absence of clear guidelines and framework defining public interest in broadcasting, the police arrested the NRI CEO of the US-based website on which the clips were traded without checking that it had been sold to e-Bay long before the distribution took place. The arrest and subsequent public backlash, particularly in Non-Resident Indian community, as I could gauge in interviews with members of the Experts' Committee which review the law in the subsequent years, the assault on children and women in particular proved to be an influential moment for the UPA, and for the first time UPA government decided to expand the debate on media policy to include of new media and social impact of the internet in public deliberations.

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[25] A detailed account of the accusations faced by Tehelka is available in Trehan, M. (2009). Tehelka as Metaphor: Prism Me a Lie Tell Me a Truth. New Delhi, Roli books.

However, rather than seek views from across the social spectrum, the UPA hastily appointed an 'experts' committee to look into the IT Act, an episode that literally involved the Congress leadership calling up a handful of online news editors on an individual basis, rather than seek a wider debate on the relevance of self-regulation and efficacy of policy institutions such as the Press Council of India in the internet era.[26] In particular, the Congress leadership overlooked the fact that online networks and Web2.0 sites like YouTube which launched around the same time, were now becoming a 'social media' as per those advocating wider reforms. Even as UPA's leadership tried to engage with themes in technology it continued to rely on IT related laws to address problems much more social in nature, which limited the extent to which it could engage with the alternative voices that were also not ready to be involved in a media policy debate as yet.

More crucially, the UPA appointed expert committee also overlooked the question of political economy altogether, largely due to the presence of only large IT sector groups rather than independent and smaller online media related interests and activists.[27] In an interview with a member of Experts' committee, I came to sense the unease in their meetings around the problem of content censorship. The member was so emotionally moved by the critical backlash against the committee online that he reminded me of his credentials as a lifelong patron of civil liberties groups during the time of the Emergency.[28] Online hate and anti-minority propaganda left these members feeling helpless. Many of them well understood to ideas being propounded by new media activists, and one of them stated so in public, that even if there are some vicious

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[26] A first-hand account of the events as they unfolded in April 2004 is available in Balakrishnan, A. (2012). The Wave Rider. New Delhi, Pan Macmillan India.

[27] Barring one editor of an online news site, the Expert Committee constituted to ponder the question of legal and statutory reform, consisted of members of software and IT sector who had little experience on the issue of media regulation and hence none of them were willing to get into the difficult debate around content censorship. Report of the Expert Committee, Proposed Amendments to IT Act 2000, August 2005, Department of IT, Ministry of Communications & IT, Government of India, New Delhi.

[28] Interview conducted by author in Delhi, January 2014.

and hateful views posted on websites, censorship only provided an 'aura of truth' to the blocked material.[29]

Before we consider how these deliberations expanded the policy influence of alternative ideas, it is crucial to reconstruct the broadcasting policy debate which also saw contentions rise but eventually resolved through a discourse of self-regulation that adhered to the cultural nationalist framing and were led by largely Delhi-based news channels rather than involve activists and journalists from the wider journalism fraternity. While the BJP had completely ignored the draft Broadcast Regulatory Authority Bill until it was in power in 2004, the very act of *omission* being a part of media policy, the UPA revived it in light of the growing concerns emanating from the circulation digital content and MMS videos, including the emergence of 'sting journalism' that were often broadcast LIVE television. In 2006, after two years of reviewing the draft, the UPA sought to address the challenge but relied on the existing policy discourse rather than raise wider concerns relating to the ownership or growing concentration of political interest in the broadcasting sector.[30]

Again, it was through the Ministry for I&B that the UPA government initiated a public debate, while the Parliamentary Standing Committee on Broadcast Regulatory Authority which reviewed the legislation internally. Throughout the course of deliberations that followed, the UPA leadership fell back on a time-tested formula, put in place by a new minister for information and broadcasting, who was appointed to lead the deliberations with large private sector broadcasters. The presence of an Emergency-era veteran leader served *in lieu* of stronger

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[29] These views were rarely expressed publicly, including the NASSCOM whose leaders acknowledged that "there are some terrible, vicious and inflammatory views that are sometime posted on websites" but argued against censorship and that "curbing such freedom is giving in to terrorism and threats". "ISPs lift restrictions on blog websites" in The Hindu, 22 July 2006

[30] Several prominent editors argued that sting operations should not be called 'investigative journalism', but rival television channels made opposed such a stance. The Press Council issues a 'Guidelines on Sting Operations' in 2010, but hardly anyone follows or implemented these either. See Norms of journalistic conduct", Press Council of India, 201 (Published in New Delhi)

coordination or broader deliberation on the question of self-regulation and in spite of a heated debate on potential coercive aspects in the law, the policy debate did not venture too far from the existing framework.[31]

In addition, the Congress leadership also entrusted its political allies, such as the Nationalist Congress Party (NCP), rather than the Left parties to coordinate the discussion with private broadcasters. By 2007, in spite of a few public demonstrations, only the most powerful private broadcasters, including 59 privately-run national and regional news networks, had constituted small but powerful Delhi based media lobby 'National Broadcasters Association' (NBA) which came to stand in place for a more public press commission as had been the case in the past.[32] Even as the UPA agreed to withdraw the legislation, the NBA voluntarily signed up on a new 'Code of Conduct' which remained as weak an institution as any other in the past. The policy deliberations worked because it was never meant to work too well.

That is to say, the creation of such non-statutory bodies as the NBA or the News Broadcasting Standards Authority,[33] and adoption of a code of ethics made no difference in the conduct of channels or for that matter the functioning of the broadcast news proprietors. Meanwhile print and broadcast news media were found indulging in ever more unscrupulous activities such as relying on 'paid news' undercover of weak policy. Meanwhile, routine instances of cultural nationalist censorship continued even as private broadcasters continued to practice the usual self-censoring approach on contentious issues. In almost all cases, censorship was used on the

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[31] The Minister for Information and Broadcasting P. R. Dasmunsi took over the office in 2006 and was known as a committed member of the party 'loyalists'. Dasmunsi made his political mark under the mentorship of Sanjay Gandhi, and like many youth leaders of the time, had become an active backroom operator and popular with the press in Delhi who referred to him by his initials PRD. Based on interviews with journalists in Delhi. January 2014-May 2015.

[32] The Code of Conduct included a reference to "News channels will also refrain from allowing broadcasts that encourage secessionist groups and interests, or reveal information that endangers lives and national security". "Code of Conduct," NBA, 2008

[33] For a criterion of membership of the NBSA and the "guidelines and principles" see "NBSA", India Broadcast Foundation, New Delhi. Available at http://www.ibfindia.com/news-broadcasting-standards-authority-nbsa (September 2016)

grounds of cultural sensitivities with channels beaming 'foreign' fashion channels and international news networks being targeted far more frequently than any of the domestic news channels in India.[34]

In contrast to this politics of broadcasting policy, new media policy debates moved along a very different trajectory. As mentioned earlier, the politics of online media had led the BJP government to endorse a more technology-oriented discourse under the IT Act. Since 2004, soon after the arrest of the Indian CEO of Baazi.com made headlines, the UPA government had put it under review, and in its search for a more effective mechanism began engaging with IT sector experts through the committee set up to review the law in light of the emerging digital media practices and affordances of online networks.[35] The experts' committee submitted its report in May 2006, and subsequently a Parliament's Standing Committee started to review the draft amendments and as it invited comments from private sector lobbies as well as activist NGOs and FOSS groups which had grown closer to the Left parties beyond the parliament.

However, at the time, in their bid to limit the arena to only large IT sector, the Parliamentary review focused primarily on themes of law and cybersecurity and limited the social aspect that left out the politics of hate speech online. If in the case of television, policy negotiations had largely retained the existing framework, in the case of new media, the Congress leadership relied on a first-time MP and a former law enforcement official to coordinate the discussion as the chairperson of the Parliamentary review committee. [36] But even as it initiated these

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[34] Between 2005 and 2013, the Union government banned 28 channels including a ban on Al Jazeera for showing a wrong map of India. See "NDTV India ban: First time a news channel barred over national security" in The Hindustan Times, 4 November 2016

[35] Report of the Expert Committee, Proposed Amendments to IT Act 2000, August 2005, Department of IT, Ministry of Communications & IT, Government of India, New Delhi

[36] In the course of the review, the IT ministry, then headed by A. Raja, had told the officials in the law ministry which vetted the draft that Section 66A was added to prevent "cybercrimes against women, especially to punish those sending vulgar mobile phone SMSes (sic) to women". These arguments, however, were never made within the Parliament or beyond. For details of the absence of any serious deliberations, see "A little reminder: No one in House debated Section 66A, Congress brought it and BJP backed it" in The Indian Express, 15 March 2015

discussions, the UPA government continued the use of the state's digital emergency response agencies, like the CERT to censor content online, unable to combine its concerns regarding the hateful content emanating from *Hindutva* with the framework of new media policy.

This haphazard approach and reliance on law enforcement added to the existing weakness in the discourse of IT Act be effective in addressing the challenge of media policy, let alone convince new media activists about the efficacy of such policy measures. Moreover, in the absence coordination with social policy or even the Ministry of I&B, the technical bureaucracy at the Ministry of Information and Broadcasting was left on its own to address the challenge of defining themes in policy.[37] It was in this context that the role and ideas of FOSS technologists began to have an impact, but before we consider how policy change followed the failure of the IT Act. We first need to consider their ideas in more detail about autonomy and anonymity online which interpreted technological change very differently and provided an alternative discourse for media policy.

Towards autonomy: FOSS and discourse of self-regulation

As discussed earlier, by 2006, the technology law framework of the IT Act as well as technical competence of the official agencies trying to impose executive orders became the subject of ever more contentious public activism. Before we consider how these ideas entered the formal policy domain, we need to consider the role that FOSS technologists had played until this juncture in terms of an alternative a discourse to the cultural nationalist ideologies. Their engagement began with the passage of the IT Act, with its clauses targeting online hacking which linked information technology practices and FOSS activism with themes in content regulation and media policy at large.

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[37] In the course of the attempted ban in 2006 which led to a blanket shutdown of Google's BlogSpot in India, Gulshan Rai tried to justify the attempt by stating that 'The order didn't ask the whole site to be banned.' "India bloggers angry at net ban" in BBC News, 19 July 2006.URL: http://news.bbc.co.uk/2/hi/south_asia/5194172.stm (accessed September 2016)

As mentioned earlier, with the rise of Web 2.0 in the mid- 2000s new media activists and bloggers in India had challenged what they dubbed as 'mainstream media' and many of them turned to FOSS based media platforms as an alternative. It was also through the discourse of FOSS that concerns regarding intermediary liabilities and self-regulation brought a significant realignment in the politics of media policy with progressive social movements as well as mainstream Left parties gravitating towards, and contributing to, their ideas. On the one hand this phase saw formalisation of new policy think tanks, including the corporate funded and powerful FOSS advocacy group the Center for Internet and Society (CIS) which set its base in Bangalore in 2007. On the other, this phase also saw the emergence of more grassroots Left-affiliated movements like Free Software Movement of India (FSMI) which that were already active in states like Kerala at the time and gradually came to work closely with CPI (M) affiliated advocacy groups like the Society for Knowledge Commons in Delhi.

No longer satisfied with challenging the 'mainstream media', new media activism and FOSS technologists came together to widen the debate on media policy and focussed on the problem of self-regulation by showcasing the role of IT rather than intermediary liability which they saw as being too restrictive to be relevant as a discourse of media policy. Their alliance had its origins at the same time in the dotcom era of 2000s when FOSS activism, largely from Bangalore brought together groups affiliated to parties like the CPI (M) in contact with free software grassroots movements in state like Kerala and Karnataka. In Delhi, FOSS activists bridged the divide between grassroots IT related movements and the formally organised anti-*Hindutva* Third-front parties in Delhi, although at the time many technologists liked to identify themselves as 'politically neutral' to avoid getting involved in the Left politics at large.[38]

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[38] For an empathetic account of how FOSS technologists, social activists as well as libertarian activists collaborated at the peak of the dotcom era, see "Freedom Software" in The Hindu, 2 April 2000

However, in the context of the debate on intermediary liability and IT Act more broadly, shared concerns about the weak policy discourse and creeping privatisation and self-censorship online and in mass media, brought about a convergence in FOSS activism, IT sector interests in media and political activism around media policy. In my interactions with FOSS activists in Delhi, I met many who had good relationship with Kerala wing of CPI (M) as well as independent social movements like the Right to Information campaign which was sympathetic to the anti-*Hindutva* agenda. By the late 2000s, this was something I also observed in my interactions at an international policy workshop hosted in Delhi to discuss plans for the NETMundial event that was to be held in April 2014. In this meeting, there were activists associated with dozens of well-known human rights institutions, including international media policy groups like Free Press. The workshop gave me a glimpse into the media policy world of FOSS technologists and how they wanted to develop the internet, including in the context of India's media system.[39]

In terms of their technological work, FOSS is considered as a kind of a discourse or social imaginary (Kelty 2008). I would add, that in the context of media policy, they fit closely with what Hall (1993) calls complex 'worldviews' and paradigm level ideas rather than simple 'programmatic' plans. Often there is friendly disagreements between those promoting 'free software' and those taking a more 'open source' based approach, but together they seem to come together more often than not.[40] In the course of my fieldwork, I could see how the various strands came together and stayed on course through the Parliamentary and legislative reviews. As one commentator, whom I often heard in the course of my fieldwork, put it, the internet

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[39] See details regarding the NETMundial Workshop in Appendix 2.2

[40] In particular, I could see tensions emerging between activists associated with 'free software' groups like SKC and advocates of 'open source' based technology law experts some of whom kept point out the need to build common agenda for NETMundial. Ibid.

provides a 'cherished myth of cyberspace', and often FOSS groups would reiterate solidarities forged in the late 1990s.[41]

It should be mentioned that at the time, in late 2000s, many right-wing groups also moved towards online blogs and 'whistle-blower' style reporting that put the focus on the weak policy institutions of self-regulation.[42] However, it was the Left-wing faction which had a upper hand since they brought together FOSS-based technology activism directly into the context of self-regulation, providing ideas of anonymity not simply as a tool to malign others but also to expose the hate-filled and majoritarian cultural nationalist politics of mass media. Instead, a more technology inflected discourse of 'myth of cyberspace' and even online anonymity led to a revival of an internal debate among journalists and the press corps which took the focus away from themes of cultural nationalism.

Among the most prominent instance was a case that also the growing divergence between old and new media discourse of self-regulation. It involved a prominent television news media editor versus an online blogger who provoked the former by questioning her journalism as being done in public interest. In 2008, at the peak of the debate around the IT Act, one of India's most senior editors Barkha Dutt challenged an outspoken critic threatened a blogger Chaitanya Kunte about his commentary against her style of journalism and also ignited a public debate on the role of bloggers to be liable under the new laws.[43] Apart from being reported widely in

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[41] Liang, Lawrence "Chilling effects and frozen words" in The Hindu, 30 April 2012

[42] In 2008, a group of right-wing journalists began the popular satirical site Faking News https://yourstory.com/2011/10/the-faking-news-story-rahul-roushan/
Meanwhile on the Left, blogs like Kafila also gained popularity with their tagline "Run from Big Media" https://kafila.online/tag/run-from-big-media/

[43] Kunte wrote that the reporter was 'breaking every rule of ethical journalism in reporting the Mumbai mayhem' referring to the coverage of the terrorist attack in November 2008. In her public campaign against the blogger, the news channel NDTV argued that the blogger had misrepresented facts in his online article and reiterated that the freedom accorded by online technologies 'cannot be used to fling allegations at individuals or groups in the hope that they will then respond to things that aren't (sic) worthy of engagement.' Details of the case were widely reported in the newspapers, see "Why blogs are angry at Barkha Dutt?" Mid-Day, 3 February 2009. Report available here: http://www.mid-day.com/articles/why-blogs-are-angry-at-barkha-dutt/30802 (accessed December 2016)

the mainstream press, the case demonstrated the growing public attention to the question of new media and the relevance it now had in media policy at large. At a discursive institutional level, the case deepened the clash of ideas within India's journalism *fraternity*, and polarised the press internally on themes that had very little to do with cultural nationalism as had been the case in the past.

Eventually, as was often the case, the blogger publicly apologised to the editor, [44] but the incident brought the question of liability into the heart of the debate about media policy and self-regulation. In a sign that print and broadcast news media groups were getting polarised along themes of technology, a prominent Mumbai-based daily took the side of 'angry bloggers who are rallying behind Kunte' and went onto condemn the 'arrogance' of television channels.[45] Such polarisation on ideational terms set the stage for media policy debates which had often been conducted by the behest of elite newspaper editors who would self-censor their coverage under pressure from *Hindutva* groups. Instead the question of liability had opened a more progressive debate which again saw FOSS technology movement gain centre stage in policy debates around the IT Act.

On the other side, as I could sense in the course of my interviews with political party activists and CPI (M) supported movements and allied FOSS NGOs like the Society for Knowledge Commons (SKC), there was much greater enthusiasm for reform. Its younger, more media savvy cadre seemed more engaged in these debates, in the late 2000s, than the Congress leadership which struggled to deal with the menace of online extreme speech. Part of the reason the Congress had turned to a narrow discourse of technology law was that the President of the

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[44] The apology letter was also made available online through the whistle blowing website WikiLeaks. Available here: https://wikileaks.org/wiki/NDTV_censored_blogger_over_criticism_of_Mumbai_terrorist_attack_reporage,_27_Nov_2008 (accessed September 2016)

[45] "Why blogs are angry at Barkha Dutt?" Mid-Day, 3 February 2009

party at the time, and the then chairperson of the UPA, was herself a frequent target for hateful *Hindutva* commentary which was often done on anonymous forums online since the late 1990s.[46] This political partisan context only added to their concerns regarding anonymity, and more broadly with the discourse of self-regulation online rather as much if not more than their attempts to protect women and other vulnerable groups.

Criminalising online speech and the end of consensus

At the policy level, an ideational conflict started to build up as the question of intermediaries' liability gained more economic salience in 2007, soon after the Standing Committee of the Parliament submitted its recommendations regarding the amendments in the IT Act. In the course of the discussion, moderated by the Congress leadership through the first time MP, most of the nationalist parties endorsed placing 'definite obligations' on the online intermediaries and required them to be held responsible for the circulation of extreme content. These conditions were added to the clause 79 of the law, which could have otherwise become a source of more coordination between the UPA leadership and the FOSS groups that entered the policy domain at around the same time.

However, given the UPA government's reluctance to open a wider debate, it turned the issue into a problem of law and order, and in particular to the growing instances online attacks on 'cyber-crimes against women.'[47] In the end, the Parliamentary committee held intermediaries 'responsible for the immense and irreparable damage caused to the victims due to reckless

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[46] I sensed a strong antipathy towards personalized forms of hateful messages against top party's leadership. In interviews with journalists and members of the IT Act related Experts' Committee this point was raised several times. The hateful commentary involving its Party President Sonia Gandhi however, goes back almost two decades, when she first became a target of severe hate speech attacks. For an example, see "Sonia baiters, fans wage cyber war" Panchalee Thakur in The Times of India, 6 May 1999

[47] "A little reminder: No one in House debated Section 66A, Congress brought it and BJP backed it" in *The Indian Express,* March 25, 2015

activities that are undertaken in the cyberspace by using the service providers' platform.' [48] Caught in between rising tide of *Hindutva* ideas online but not yet convinced about new ideas and FOSS related discourse of policy, the UPA government ended up criminalising aspects of new media and forms of online blogging under the IT Act amendments while limiting the debate on self-regulation to the question of liabilities on intermediaries.

In a dramatic turn, its leadership also took recourse to an emergency Parliament session soon after the major terrorist strike in Mumbai in late November 2008 to pass the legislation. Unsurprisingly, the BJP leadership which had always preferred to selectively favour private firms over genuine policy coordination also backed these amendments while its MPs focussed on raking up a communal angle into the Mumbai blast and its aftermath.[49] As per the draft law, under section 66-69, which had previously dealt with the question of hacking, a new list of online speech that could be considered criminal, including causing 'annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will' or any 'use of such computer resource or a communication device' that could cause similar harm.

It might seem that this was a case of stickiness of historical patterns (Hall 1993) where the Congress fell into the template set by the *Hindutva* parties that had first introduced the bill in 2000, but that does not explain why the bill became so contentious especially on the question of self-regulation. Besides Section 66A, the Section 79 of the Act dealt directly with intermediary liability and set the framework for tracing and taking down such content also came to be public contested. As soon as it passed into law, these clauses led to more intense ideational polarisation which saw the formal entry of FOSS based ideas in the policy domain,

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[48] Report of the Proposed Amendments to IT Act 2000, Department of IT, Ministry of Communications & IT, Government of India, New Delhi

[49] "A little reminder: No one in House debated Section 66A, Congress brought it and BJP backed it" in *The Indian Express,* March 25, 2015

and eventually led a policy shift. This change became evident with the UPA gradually withdrawing several guidelines that it not only delayed in framing of new guidelines which it never sought to implement.

In discursive institutional terms, the intermediary liability clause proved to be a fresh battleground for alternative ideas aligned with political Left-wing activism versus the *Hindutva* activism which provided more and more justification of criminalising of speech under the IT Act. As mentioned earlier, as per the new statutory regime, intermediary responsibilities were elaborated in Section 79 of the Act that required private firms to follow up with 'due diligence' as far as their role of the content regulation was concerned.[50] This clause allowed the FOSS activists to also reach out to large IT firms which felt unsure about the fact that the issue of safeguarding the rights of Indian citizens and women in particular from online hate and violence, was made into a subject of private interest. In my informal discussions with FOSS groups and many technologists in Delhi and Bangalore, who participated in the debates that followed, the gradual expansion of the debate around Section 66A occurred *because* their ideas were now able to engage not only the corporate and IT sector interests but also drew attention of major political groups both in the Parliament and beyond.

In particular, such ideas led many CPI (M) and regional party MPs to reconsider the role of IT Act and intermediary liability as a tool in media policy, with many regional parties arguing that they had not considered full implications in the law and had voted for the amendments in the law in the spur of the moment in 2008. When I asked a political leader from a regional party, the Biju Janata Dal (BJD), which joined the campaign against the provisions of the law, on why he had signed it in the first instance, he categorically highlighted the absence of proper deliberations as a factor adding that: 'we didn't even get the time to even read the draft.'[51] This

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[50] Information Technology (Amendment) Act, 2008

argument indicated the weakness in terms of 'cognitive skills' which are essential in terms of coordinating policy (Schmidt 2010). Where the Congress leadership had lacked such skills, and the BJP wilfully supressed it through ignoring the debate in the Parliament, and it was the Third Front and the Left parties, and in particular CPI (M) MPs from the state of Kerala, who eventually brought new ideas into the policy domain through initiating fresh deliberations on the law and the broader subject of the internet and media policy.

On their part the BJP and its *Hindutva* ideologues either tried to limit the debate and even courted FOSS related activists for a brief while, all the while trying to use online media for spreading their ideological discourse online. In fact, advocates of *Hindutva* began to court large internet related firms soon after the IT Act was passed and its leadership was amongst the first to launch a professional digital media practices that include widespread use of online media for election campaigning. It formal IT Cell also ran undercover campaigns to target popular opposition leaders online (Chaturvedi 2016). A lesser known aspect of their attempt to combine the discourse of FOSS within the ambit of its ideological framework was evident in its electoral discourse around information technology.[52]

In 2009 for instance, the BJP Prime Ministerial candidate was none other than L. K. Advani, the prominent post-Emergency era Minister of Information and Broadcasting who also spearheaded the virulent media and publicity campaigns for the *Hindutva* throughout the 1990s. By the late 2000s, Advani even tried to reinvent his personality through the online blogosphere

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[51] Quote from an informal interaction with a BJD MP, held on the sidelines of an online marketing event hosted by IAMAI in New Delhi in January 2014. For details of the summit see Appendix 2.2

[52] The BJP released a 'vision document' on IT in India ahead of their 2009 elections, and was publicized on the site of their PM candidate LK Advani. See http://www.lkadvani.in/eng/images/stories/it-vision.pdf (the site has since fallen in disrepair) I gather this information from interviews in Delhi and Bangalore, Jan 2014-2015, and on a critical examination of various online fora including India GII mailing list.

and roped in the IT Cell to manage his publicity through blogs and digital content online. Supporting 'free and open source software' however, proved to just another slogan in his party's manifesto and few in Delhi or in in Bangalore came to believe that their commitment would go beyond the electoral context.[53] Eventually, by 2014, even the head of IT Cell and active advocate of FOSS in the *Hindutva* flank had quit complaining about 'highly individualised/centralised style of decision-making.'[54]

Meanwhile the progressive opposition, parties like the CPI (M) and allied regional parties, intervened more strategically in media policy debates and joined the FOSS campaign on the question of intermediary liability and related debate around the IT Act. Until that time many progressive groups, in particular the Delhi-based leadership of the Communist parties, remained bitterly opposed to media globalisation and continued to contest any FDI in print and electronic media arguing that it had led to more 'pro-Western, anti-political and anti-communist sentiments.'[55] Even as late as 2008, the Communist Party of India (Marxist) leadership slipped into assertions against 'foreign' influence that chimed with the cultural nationalist consensus of the 1990s, complete with references to media's role in 'purveying of mindless violence, sex, commodification of women and obscurantism.'[56]

But slowly and steadily, many in the Third Front and progressive socialist circles moved away from such claims and along a sharp learning curve with ideas of Free and Open Source Software providing an alternative framing for media policy activism. Already by 2007, the state of

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[53] Advani's online website which hosted documents relating to FOSS has since become dysfunctional. But a copy of the party's announcement in March 2009 is available on Open Source software sites. For instance, see http://osindia.blogspot.com/2009/03/bjps-it-vision-supports-open-source-and.html (accessed July 2017).

[54] See "BJP IT cell founder Prodyut Bora quits party; attacks PM Modi, Amit Shah's style" The Economic Times, February 19, 2015

[55] Political Resolution, Adopted at the XIX Congress of the Communist Party of India (Marxist), 29th March to 3rd April, 2008

[56] Ibid.

Kerala, which has had a strong Left presence over the decades, was implementing specific policies promoting FOSS in its public infrastructure. As Thomas (2011: p. 182) has argued, this grassroots success of FOSS could be 'attributed to the specific political environment in the state.' In the context of media policy, their grassroots activism found a social ally in new media activists, progressive bloggers and related IT interests who all came together to target the provisions of the IT Act and the policy framework more broadly.

Beginning with 2008, an issue-based coalition and discourse of self-regulation began to emerge which included not just the prominent Left parties but also many in the IT sector who were seeking a reform in the legal regime. Just a year after the IT Act was amended, a major realignment in media politics took place. After all, 2009 was a significant moment in India's democracy, a year of the general election that saw large-scale use of television for polarising the audiences along communal and Hindu nationalist lines. Politically, the BJP also used online networks to reach out to its NRI audiences as well as expand their mass propaganda through the new media within India relying on large media platforms like Facebook and Twitter which hosted more BJP leaders on it than all other parties combined at the time.[57]

However, at the policy level, FOSS groups and Left parties took a lead in setting the agenda. This change was not led by a host of policy advocacy groups, including the Software Freedom Law Center (SFLC) which had in its ranks a growing number of social policy activists including those affiliated FOSS related social movements and NGOs like the Society for Knowledge Commons (SKC). The latter aligned much closer to the CPI (M) on a host of related 'commons' and intellectual property issues. In addition, there were several alternative

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[57] In the course of my interactions with participants at various protests and public debates, including journalists covering the party. I was able to trace the period from 2009 (when the new IT Act regulation was notified) until 2011 to be a crucial moment in this regard and relied on a rough estimate of when the BJP's top leadership moved online through a critical examination of their Twitter accounts online, accessed through author's personal Twitter account.

technology law activist networks in Bangalore who maintained close relations with the IT industry and worked more closely with them than any IT Cell or *Hindutva* parties at the time.

While Bangalore based groups like the CIS brought many corporate IT interests associated with 'open source' in Bangalore's IT sector, SKC and SFLC in Delhi often roped in party political activists together in their campaigns. By late 2000s, CIS hosted a Google Policy fellowship which sponsored research on freedom of expression and privacy as well a range related policy issues, while SFLC engaged in building a broad-based coalition with civil rights and privacy related social activism that I will discuss in the next chapter. From a discursive institutional framework however, their presence enhanced an alternative discourse that brought together new ideas into media policy debates and bound them to emerging IT interests in digital media sector. By late 2000s, industry groups like Internet and Mobile Association of India (IAMAI) began to drift closer to such ideas while working out a response to the IT Act.[58]

As the most powerful intermediary in the country, Google was virtually the most important policy target for Indian government. And through its platform Android, Google was also home to large number of FOSS technologists as well as a major patron of IAMAI which became a leading industry lobby on IT policy at this time.[59] In negotiating with the UPA leadership, at the time of the Parliamentary review prior to the passage of the IT Act, Google had argued that 'power to issue such notifications (about content) must be placed in the hands of a judicial or quasi-judicial body.'[60] This view again bolstered the arguments of FOSS technologists and

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[58] Details of CIS activism including funding and research partnership available here: https://cis-india.org/internet-governance/google-policy-fellowship (access September 2016)

[59] This is based on my interactions at the IAMAI 'Digital Media Summit' hosted in Delhi. Details of the event available in Appendix 2.2

[60] Google also emphasized that since Indian laws required "reasonability" criteria for limiting free speech in the press it wasn't clear whether it should even comply with all the requests made by the government agencies under the IT (Amendment) Act. The submission called on the MPs to consider whether the decisions taken by the government adhered to the spirit of the constitutional settlement. (Source: Google's official submission to the Standing Committee reviewing the IT (Amendments) Act, April 2007. Account also based on an interview with a legal representative involved in the intermediary liability related deliberations in India. Interview conducted in January 2014, New Delhi

allied legal activism that warned against the privatisation of censorship as an alternative for the weak discourse of self-regulation and intermediary liability in media policy.

Meanwhile, even as hardliners in parties like the CPI (M) toned down their moral and cultural discourse around the corrupting effects of foreign media, their policy advocacy changed on the ground. Their cadre affiliated with groups like SFLC bridged the divide and framed the problems of self-regulation in media policy in terms of intellectual property and digital rights of citizens online. Here the presence of groups like the Society for Knowledge Commons (SKC) and FOSS stalwarts like Eben Moglen of SFLC proved crucial. Moglen, along with Richard Stallman, was not only one the world's most popular FOSS evangelist. In an interview with a leading member of the FOSS movement in the 1990s, I could see the influence of such personalities had gradually reached into the formal media policy through a sharing of ideas rather than any direct interaction with party political leadership. I also noticed the presence of the course of my fieldwork, how the Left parties which had remained sceptical of IT gradually began to discern between the Silicon Valley varieties of informational capitalism from other ideas at the time.[61]

From a DI perspective, question of intellectual property provided a shared frame (Benford and Snow 2000) for disparate groups to come together on the issue of self-regulation. It offered a diagnostic view of how privatisation of censorship was made possible by the IT Act as well as a prognostic evaluation about how free software-based media production and distribution can support democratic reforms in Indian media's political economy too. In the subsequent phase, which I define as a case when new ideas managed to frame a 'crisis' as they moved from the margins into the policy discourse. It saw FOSS technologists, and with them their alternative

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[61] Much of the evidence or this claim is based my face to face interactions with groups like SKC from January until September 2014. For an account of their public campaign over the years, see: http://www.knowledgecommons.in/event-campaign/ (accessed December 2016)

discourse of self-regulation gain legitimacy and public recognition not just in the political domain but eventually in changing policy at large.

Compliance and technology activism: Framing a crisis

Before we consider how new ideas led to policy change with the UPA government endorsing the framework first developed by FOSS groups, we need to review the discourse of policy that emerged from the IT Act and how it gave rise to opportunity for framing a 'crisis' in the context of this law. Already, and this needs to be emphasised that FOSS technologists had access to the UPA leadership through other policy routes besides the context of media policy. For instance, in a meeting of Internet Governance Forum, held in Hyderabad in 2011, several ICT policy related issues were discussed which brought together FOSS technologists with many national and international policymakers. Here too, FOSS related advocacy groups like SKC and CIS advanced alternative frames which had implications for media policy too, including a 'right to online anonymity' which they argued was significant in journalism since in 'controversial areas of policy formulation, it is usually anonymous officials from various ministries making statements to the press.'[62]

Gradually, these ideas began to connect the dots in the emerging discourse of media policy where the Congress and allies had to reconsider their approach to media policy. Moreover, a more pressing issue was of lack of compliance by large intermediaries which became public in 2011, when the UPA government tried to surreptitiously convince the private social media and content search providers, including Facebook and Google, to let them directly access their content online. [63] Such efforts reflected the weakness in the coordinating discourse of the IT Act which had relied on a discourse of technology that was neither backed either by an

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[62] Abraham, S. "We are Anonymous, We are Legion", in <u>The Hindu</u>, April 18, 2011

[63] Timmons, Heather, "India Asks Google, Facebook to Screen User Content" in <u>New York Times</u>, 5 December 2011

ideological consensus as had been the case in mass media debates nor was the UPA able to bring on board the latge intermediaries which remained sceptical of the liability clauses and leaked the demands for self-censorship and surveillance in the international press.[64]

Already on back foot in the legislative arena, where it had to now contend with a more oppositional Left parties (primarily due to disagreements over its foreign policy), it also had to hold back the *Hindutva* right-wing that began to misuse the IT Act and added to the growing public contentions around the IT Act. Even as the UPA government tried to operationalise fresh guidelines under the law and coerce private firms to adhere to these rules, many regional allies of the BJP began to defect from their legal regime and used the IT law to crackdown against the political rivals and dissent online. As discussed earlier, but the late 2000s, Delhi based FOSS advocacy and Bangalore based technology law activism had already indicated that relying on privatisation of censorship through intermediary liability but the potential misuse by *Hindutva* parties against cultural minorities added a political dimension to these trends.

In a series of high-profile cases, which were reported and debated vigorously in micro-blogging sites like Twitter, even regional allies of the UPA like the Trinamool Congress (TMC or 'grassroots nationalist Congress' party),[65] as well as several *Hindutva* affiliated groups across northern-India began to misuse provision of the IT Act to communalise debates around freedom of expression online. This was also the case in Maharashtra, when the State's police arrested two women for publishing comments on Facebook for commenting on the regional *Hindutva* ally *Shiv Sena* party leader. In the subsequent protests, an argument that the IT Act would act as a fair arbiter to protect misuse of online media was questioned almost across all sections of the anti-*Hindutva* parties. The *Sena* case had a major institutional impact too, it set into motion

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[64] Ibid.

[65] "Outrage over cartoonist Aseem Trivedi's arrest on sedition charges for 'mocking the Constitution'" ndtv.com, 10 September 2012 http://www.ndtv.com/india-news/outrage-over-cartoonist-aseem-trivedis-arrest-on-sedition-charges-for-mocking-the-constitution-498901 (accessed December 2016)

a legal debate around self-regulation and led to a landmark litigation that culminated with a case in the Supreme Court which saw the repealing parts of the IT Act in 2015.[66]

In arresting bloggers and online journalists, the *Hindutva* parties justified the activists' claims that IT Act was not the way to go and could potentially be used against religious and cultural minorities. By framing long standing problems of self-regulation, not in cultural nationalist framework but in terms that exposed the normalisation of self-censorship, FOSS technologists and online new media activists also offered a diagnostic perspective on the means to counter circulation of online hateful content. Rather than see these arrests as 'a harmless case of the police goofing up,' online activists like those from the Centre for Internet and Society, argued that the existing policy had failed in ensuring the protection of press freedom because it never dealt with the imbalance in the digital media economy. They argued the IT Act, particularly those sections that dealt with technology like Sections (66-69), were instruments could become a cause of censorship and harm independent journalism that was not bound by the profit motive of proprietary software-based media platforms.[67]

This was not so much as case of UPA leadership setting up the debate, but rather a case of what De Zwart (2015) has identified as 'unintended outcomes' with the UPA's focus on law and order and turn towards technology (through clauses such as Section66A) providing an opportunity for activists and their ideas to enter the formal policy arena. Through interviews with those involved in the IT Act litigation, I was able to see how the alternative ideational alliance put the focus firmly on the need to include rights of the citizens, and their activism

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[66] Rashmi Rajput "Two women arrested for Facebook post on Mumbai shutdown granted bail", 20 November 2012 http://www.ndtv.com/mumbai-news/two-women-arrested-for-facebook-post-on-mumbai-shutdown-granted-bail-504977 (accessed December 2016)

[67] Pranesh Prakash, "Adding Insult To Injury", in Outlook India, 19 November 2012

overlapped with their advocacy around themes of privacy in the context of telecommunications (online which I will discuss in the next chapter.)

By 2012, a sense of a 'crisis' built up even as the UPA government struggled to cajole online intermediaries like Google to fall in line within the ambit of the IT Act. In the absence of a strong coordinating dialogue around intermediary liabilities, and growing misuse by regional state governments, saw large private internet firms drag their heels in complying with official demands. Around late 2012 and until mid-2013, Google for instance refused most takedown requests they received from the Union and regional governments. As the following Figure 2 shows, in India requests to take down 'items' from online web searches peaked between these months.[68]
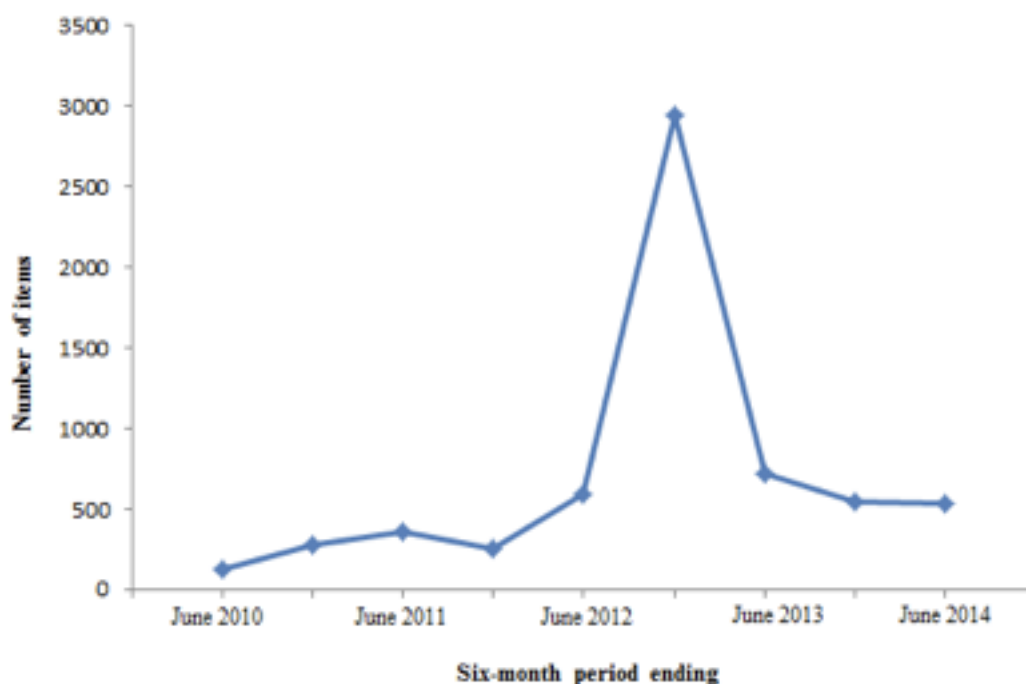

Figure 2: Number of items 'taken-down' by Google from their websites from 2010-2014

[68] Google Transparency Report, available at http://www.google.com/transparencyreport/removals/government/IN/ (accessed May 2015)

More crucially, in this period, Google only responded to less than half the 'takedown' orders that came from government authorities in comparison with those orders that came from courts. In 2012, the compliance rates for orders issued by courts was 53% while for those official requests that came from the government, the compliance rate was around 30%. In the subsequent year too, Google complied with around 52% of orders issued by the courts while only admitting 23% of those orders that came directly from the executive authorities either at the state or local government levels. [69]

The bolstered the framing of problem of self-regulation and media policy in terms of a 'crisis' and eventually led the UPA to engage more thoroughly with their ideas. In September 2012, following yet another instance of the UPA government unable to takedown content relating to violence in its border regions, its Minister for Communications and IT convened an extraordinary meeting that indicated that the Congress leadership was willing to follow ideas that had remained largely on the margins of its own thinking so far. These consultations, hosted in Delhi at the Federation of Indian Chambers of Commerce and Industry (FICCI), a policy change became evident as the government called a wider range of participants than had been the case with the review of the IT Act, and asked them to deliberate on the problem of 'Legitimate Restrictions on Freedom of Online Speech' with the government asking all sides to move from 'Deadlock to Dialogue.'[70]

In framing the debate in terms of 'legitimate restrcitions' the UPA leadership sought to engage in a much wider debate that recalled the early consultations held under the Press Laws review committee. Not only did the UPA asked MPs from across the political spectrum to join, but

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[69] Ibid.

[70] The negotiations were facilitated by the Federation of Indian Chambers of Commerce and Industry (FICCI) and saw the participation of the Chambers of Indian's Industry (CII) representatives as well as a number of key interest groups associated with the IT sector. For an account of the proceedings of the negotiations see "Stakeholders steadfast on changes in IT rules" in The Hindu, 3 August 2012

also invited journalists and several technology NGOs for these consultations.[71] In the outline for dialogues, the UPA proposed that 'everyone does agree that, whatever be the outcomes of these dynamic debates, there is certainly an "X" kind of content that must attract State action.'[72] With these gestures, the Congress had in essence agreed to making bloggers and FOSS related technologists a party to its media policy discourse. However, in terms of substantial policy change, the real heavy lifting was done by Left-parties like the CPI (M) which not only remained critical of such informal 'consultations' but also called out the UPA for ignoring questions of political economy and problems of intermediary liability which were already being debated in the Parliament.

A 'new' media politics: FOSS, alternative ideas and intermediary liability

Policy shift can involve expanding the definition of what are considered policy problems and the way these are defined (Beland 2009), and on this front the UPA's thinking led to a wider review of media policy beyond its limited focus on technology law. The government also recruited more in-house expertise, with the explicit aim to address emerging social dimensions of media policy, particularly relating to the theme of the internet. For instance, through the establishment of the Center for Communications Governance in 2013, set up in Delhi's National Law University. The Center became a hub for media policy activism, and played a crucial role in the development of the legal challenge to the IT Act which led to a repeal of the Section66A in 2015, in spite of the BJP-backed government backing the legislation in the Supreme Court.[73]

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[71] The NGO "IT for Change" played a crucial role in coordinating the meeting and in the past, it has worked closely with the government on a variety of projects as well as being part of India's representatives in the discussion on Internet governance. For details see http://www.itforchange.net/Techgovernance (accessed September 2016)

[72] This position was also articulated by groups such as Information Technology for Change (IT for Change). For full comments, see Comments by "Legitimate Restrictions on Freedom of Online Speech: Creating Balanced Approach: From Deadlock to Dialogue", 4 September 2012

[73] In its mandate the CCG states its purpose to contribute more "meaningfully with information law and policy, and contribute to improved governance and policy making." See http://nludelhi.ac.in/res-ccg.aspx#

However, besides such long-term changes, in the specific context of the politics of media policy and intermediary liability, we have evidence that shows the realignment between FOSS activism and Left parties that took place in 2012. No longer limited to the peripheries of policy, FOSS technologists now set the agenda through a more coordinating role, which far beyond exposing the limitations of the IT Act and developing an alternative framework to address the challenge of convergence. Instead their ideas now gained access to the policy agenda, although the process was mediated through their alliance with the Left parties which had mobilised through their grassroots networks to initiate a broader review of media policies including the questions liabilities, but also political economy and ownership in the context of the emerging media system.

While Bangalore based FOSS advocacy groups like the Center for IT and Society primarily worked with the support of funding from large donors, activists from grassroots social movements like the Free Software Movement of India (FSMI) were now able to institutionalise the discourse of media policy more thoroughly in the Parliament. This further emboldened progressive movements to engage with political organisations, especially the CPI (M) MPs and Third Front parties, which called for a broader review of the IT Act. This way the ideas initially advocated by the FOSS movement gradually became the basis for coordinating role in media policy, giving rise to a new politics which came into being with the introduction of an annulment motion against certain guidelines under the IT Act in May 2012.

The motion, moved by CPI (M) MPs in the Upper House of the Parliament, was aimed primarily at the IT Act and at repealing guidelines issued under the law that the Left parties argued could lead to a 'draconian' turn in media policy. In introducing the debate, CPI (M) MP P. Rajeeve argued that the Information Technology (Intermediaries Guidelines) Rules, 2011

were Ultra Vires of the original IT Act and violated the rights of freedom of expression and rights of the press in the country. Framing the problem in sharp contrast to *Hindutva* cultural nationalist terms, he endorsed the alternative ideas as the coordinating framework for self-regulation, arguing; 'I am not against any regulation on internet but I am against any control on internet...'[74]

In the course of subsequent debates in the Parliament, the Left parties and independent MPs put the focus firmly on policy rather than issues of 'foreign' influence, giving the *Hindutva* opposition little chance to play their cards. CPI (M) MP Rajeeve stated that 'all of us (MPs) are aware that there is no specific law for protecting freedom of the press in our country' and thus opened the policy for FOSS technologists and related movements to address a foundational issue in media policy. The framing of problem in constitutional terms allowed a new coordinating discourse of policy and led to a wider debate which continued long after the motion itself failed to muster the numbers in the Parliament.[75]

The argument was received pragmatically by the UPA leadership, indicating not just social but institutional *learning* within the Parliament which refrained from any direct reference to cultural nationalist assertions at the time when the changes in the law were proposed. For the Congress, they provided an alternative coordinating discourse that was in sharp contrast to the *Hindutva* assertions which had become the cornerstone of media policy over the decades. Even though it opposed the motion in the Parliament, the UPA leadership were careful to not be seen on the side of Hindu nationalist parties in the Parliament which stood up to argue against the

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[74] "Motion in RS to annul rules to control internet content" in The Indian Express, 17 May 2012

[75] In calling for the repealing of the IT Act, SFLC started a public petition stated that the 'Government has enacted laws that gives it a free pass to censor our Facebook posts, listen to every Skype conversation we have, monitor our tweets or blogs or access private photographs and documents we store online, or track our location using our mobile phones', thus supplementing the parliamentary debate with a more populist argument against online censorship.. Petition available on the change.org website, https://www.change.org/p/mps-of-india-support-the-annulment-motion-to-protect-internet-freedom-stopitrules (Accessed September 2016)

motion. Responding to motion, BJP MP and former I&B Minister Arun Jaitley, spoke in defence of the IT Act and framed the problem in a way so as not to open a broader debate on media policy, suggesting that the problems had largely to do with 'phrasing' of certain clauses in the IT Act.[76]

But even as the annulment debate ended, the UPA leadership proposed to continue these deliberations through a formal mechanism. Even as they voted against the motion, the UPA leadership indicated its support for wider debate in the Parliament and supported a Select Committee on Subordinate Legislation to review the question of liabilities for online media intermediaries from a broader perspective. While the BJP MPs had tried to scuttle any further debate, and pointed out 'errors' in the text of the law, the UPA leadership had in effect endorsed the Left view, which saw FOSS technologists and alternative policy ideas finally gain a firm hold in the policy agenda.

The subsequent debates, under the aegis of the review committee saw a strengthening of the strategic alliance and saw the three major FOSS groups roped into the deliberations hosted in the Parliament. The first was the Society for Knowledge Commons, which was more akin to an in-house think tank of CPI (M), and involved a strong cadre of grassroots FOSS networks in states like Karnataka and Kerala. In personal interviews with members of the group, I could see that SKC is an important voice related to the Left political parties in Delhi. In addition, there was the SFLC which represented a variety of free software related interests in India and internationally. Finally, the Center for Internet and Society (CIS) had its own history of collaborations with various FOSS related IT activism as well as many large IT sector interests in and around Bangalore.

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[76] Press Release: "Arun Jaitley speech delivered in Rajya Sabha with respect to IT (Intermediaries Guidelines) Rules, 2011 under the IT Act 2000." 17 May 2012

A policy shift was evident in the fact that the Left had secured a leadership role, while the UPA maintained its distance from any references to themes in cultural nationalism. In sharp contrast to the television media debate, these discussions did not engage the Ministry of Information and Broadcasting directly but instead saw opposition CPI (M) MPs from Kerala helming the 15-member review committee. In their deposition, the Ministry of Communications and IT also only emphasised technical aspects of IT Act while framing the problem in a way that did not touch on the political aspect of media policy.

In their formal submission to the Select Committee, the ministry officials, seeking to explain their difficulties, brought forward issues which had remained under discussed in the past, and highlighted problems that had never been debated. They stated that 'anyone could post content by any name using a private address (sic). Due to these characteristics and features of the technology, it is difficult at times to trace the user who posted the content'. In contrast activists from SFLC, which deposed before the Select Committee in June 2013, argued along a more social line and called to attention the role of intellectual property rights in framing the problem. Submissions from Knowledge Commons further added a constitutional aspect, stating that the IT (amendment) Act was 'patently in violation of various Fundamental Rights protected under the Constitution. The Guidelines (set under the Act) are therefore vague and ambiguous in that they fail to lay down parameters for deciding what objectionable (sic), disparaging etc and what is not.'[77]

In this way, a new coordinating discourse took shape that define the problems of media policy in terms themes in self-regulation and not just technological change. Arguing in favour of strong intermediary liability, ministry officials stated that 'malicious content' was easy to post

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

online, asking 'How do we contact the owner of information? How do we identify that this is the person who has uploaded the information?' In contrast, the FOSS NGOs, not lacking in technical competence, again and again argued that technology was not the real problem. Rather the problem was privatisation of censorship, lack of clear rules and potential for collusion with the government that had long been the case in mass media related self-censorship in India. [78]

Instead of greater state control over content, activists and their political supporters called for a wider debate on the delegation of political censorship to private interests. In the course of the review, the Department of IT which had been behind the draft of the law also told the Select Committee that 'the practices and policies of these social networking sites, each of them, whether it is Face Book (sic), Google, You Tube, Yahoo or Twitter or any other sites have exactly used the same words as used in the Rules (restricting online content in IT Act).'[79] For the FOSS technologists and internet evangelists, this was a prime example why new media should not be put under a framework determined by large corporate interests. This upset the consensus in the past when *Hindutva* nationalists had often delegated powers to private interests all the while ignoring the substantial question of citizens' rights.

Deposing before the Parliament, representatives of Society for Knowledge Commons and SFLC argued that this clause unfairly targeted smaller intermediaries who have not been consulted in framing the rules.[80] The parliamentary review did not immediately overturn the intermediary guidelines or for that matter repeal the IT Act, but in discursive institutional terms

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[78] Ibid.

[79] Ibid.

[80] According to the subordinate legislation the UPA government had introduced under the IT Act, some rules also applied to cybercafé operators and other smaller intermediaries. As per the Rule 5 Information Technology Act (Guidelines for Cyber Cafe) Rules, 2011, cybercafe owners were to maintain detailed records of all online websites accessed by users. The FOSS activists made common cause with these smaller 'Indian intermediaries' who they argued, 'will not be able to do it because they will be small, they will be start-ups. Only companies of the size of Google and Yahoo may be able to do it (find content online and remove it)' and thus the existing guidelines were reinforcing an unfair framework that rode roughshod over the rights of Indian citizens. 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

it changed the orientation of policy from narrow questions of technological change towards a broader framework for self-regulation. In its report, the Standing Committee, helmed by a CPI (M) MP, came down clearly on the side of alternative ideas, calling the existing rules set by the government under the IT Act as 'arbitrary' and also underscored the inability of the UPA government to engage seriously with the debate.[81]

Mass media and the new politics of media policy

Besides bringing in a wider set of ideas into the policy arena, another crucial impact of the Parliamentary review was that it exposed the weakness in existing institutions of self-regulation in mass media, ending the consensus around cultural nationalism in particular. In admitting the claims of rights activists, the committee's final report sharply brought into focus the failure of the political leadership to address the substantial questions in policy. In particular, the report called the UPA's reliance on the IT Act an 'expression of helplessness', laying bare the old politics of targeting intermediaries while ignoring the structural problems of self-regulation.[82]

Unlike the debates around broadcasting regulation, the debates on online media policy also saw the democratic Left parties, led by CPI (M) MPs form Kerala, break from the past and support new ideas that focussed on issues of intellectual property and communication rights of citizens. As I observed in the course of my interactions and participation in public events convened around these debates, the MPs were assisted by sharp legal scholarship on law by SFLC and digital rights activism by groups like CIS and Society for Knowledge Commons, the legislative debate opened media policy to technology related activism. The fact that many Communist

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

[82] In point 50 of the Report the Committee concluded that foreign firms have repeatedly overlooked the regulations set under the IT Act, stating that "The Committee do not expect an expression of helplessness from the Government in this regard and urge the Ministry of Communications and Information Technology to take such steps as deemed necessary to enlist their co-operation." Ibid."

MPs used online social networking sites like Change.org to expand these debates beyond the Parliament was just one of the many ways in which the internet was used to reach out to younger and more technology savvy groups beyond the usual policy domain.[83]

In contrast, the *Hindutva* right-wing leadership and its IT Cell used 'micro-blogging' platforms, particularly the 'follower-following' template of Twitter to achieve what (Pal et al. 2017) have identified a strategy of using 'innuendo as outreach'. Directly led by Hindutva's national mascot and at the time its PM candidate Narendra Modi, the IT Cell of the party and *Hindutva* 'trolls' used its time-tested 'calculated communalism' (Ninan 2007) that their predecessors had used in side-lining debates around mass media policy since the 1980s. Even as its leadership defended the IT Act in the Parliament, its mass politics of cultural nationalism was evident in political spectacles that 'demonstrably resonates on social media' (ibid: 4197) and reflected an attempt to counter the coordinating discourse of policy.

The *Hindutva* effort led to further weakening of conciliatory efforts mentioned earlier, that were made in the context of episodes in the late 2012. But such efforts to bring together media interests and institutions through all-party consultations proved harder as the 2014 elections approached. The reluctance of FOSS groups to be co-opted through extra-parliamentary negotiations, meant that Left parties and many journalists invited to the meeting did not attend either. Needless to mention the BJP leadership also evaded such consultations that sought to define 'legitimate restrictions' and instead focussed all its energies on a cultural nationalist discourse of 'free speech' which in the context of media policy meant using online platforms

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[83] The petition 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.' https://www.change.org/p/mps-of-india-support-the-annulment-motion-to-protect-internet-freedom-stopitrules (accessed December 2015)

to directly propagate their political ideology online while ignoring intermediary policy debate in the Parliament.[84]

Indicating that it was open to opening a fresh debate on media policy, in 2013 the UPA launched a more institutional consultation through the Law Commission of India as well as through industry run think-tanks which brought out various draft legislations aimed at bringing old and new media policy in consonance with another. In the course of the crisis in 2012, for the first time in decades, the Press Council of India also became the site of an intensive policy debate when its chairperson tried to mediate on behalf of the UPA government. In an evident revival of the deliberative institutions of media policy, the Council's outspoken chairman, (retd.) Justice M Katju called for more powers. Pointing out the reports of online hate speech, Katju called the government to give the council 'more teeth' if it were to act genuinely against *Hindutva* related hate groups that 'keep fanning communal hatred, and despite several requests does not cease to do so'.[85]

Gradually, the legislative discourse and division therein also aligned with ideational divide beyond the Parliament, with the effect that media policy became divided between efforts to coordinate a new framework versus attempts by the Hindu right to polarise the debate through a polarising discourse that focussed narrowly on themes of digitalisation. There were also other reasons why ideational polarisations institutionalised, relating to the problem of surveillance which I discuss in detail in the next chapter. The point to note here is that new ideas and technology activism could not completely overturn the existing policy framework and was

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[84] The NGO "IT for Change" played a crucial role in coordinating the meeting and in the past, it has worked closely with the government on a variety of projects as well as being part of India's representatives in the discussion on Internet governance. For details see http://www.itforchange.net/Techgovernance (accessed September 2016)

[85] Press Council of India Chairman Justice Markandey Katju unrolls for the first time his "grand vision" for the Indian media. Interview with Damayanti Datta, in India Today, New Delhi, 27 January 2012

actively resisted through various ways by *Hindutva* forces which sought to shift focus on themes of digital technology.

Before I discuss how the political debates around the IT Act eventually contributed to the new politics of media policy, it's important to underscore the extent to which even the BJP and *Hindutva* forces tried to push aside concerns relating to intermediary liability in the course of the general election in 2014 which saw extensive use of new media for political polarisation. Instead of debating policy, its leadership spoke of a vision of a new 'Digital India', a scheme that the BJP's PM candidate at the time used extensively in his election campaign.[86] Speaking at a major industry event in 2014, hosted by industry group IAMAI,[87] rather than debating it in the Parliament, Digital India was to showcase IT as a source of India's national prowess rather than a means to empower independent journalism or policy deliberations around questions of the rights of Indian citizens online.[88]

Nonetheless, the *Hindutva* leadership could not evade the debate around media policy in the legislature, and increasingly in the public domain where questions of online anonymity had ended the consensus that had dominated policy in the 1990s. By 2013, in the course of the public deliberations hosted by the Center for Communications Governance and informal debates held under the aegis of independent journalism advocacy groups like the Editors' Guild of India, questions of intellectual property and anonymity online polarised the arena further. This ensured that policy change could not be reversed easily. Moreover, with statutory bodies like the Press Council of India drawing attention to the use of hateful content, the *Hindutva*

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[86] See note on Digital India in Appendix 1.2

[87] See Appendix 2.2 for more details

[88] In my interactions with many industry leaders attending fora like the IAMAI's 'Digital Summit' which was addressed by Modi ahead of the elections. The *Hindutva* strategy was to bring on board large corporate firms like Facebook, Twitter and Google rather than address outstanding policy concerns through public consultations. I held informal discussions with many participants attending the event in January 2014. For details see Appendix 2.1

leadership was kept in check with its own communicative agenda of Digital India made little impression. I could sense this in my interactions with FOSS technologists, legal and policy advisors as well as digital media 'start-ups' in the course of the IAMAI summit where the BJP's Prime Minister first introduced his flagship scheme to industry leaders.[89]

In interactions with journalists, as the UPA term came to an end in 2014, I could see how the then I&B Minister, often a pivot for cultural nationalist framing of policy now became a mere spectator in these deliberations. Instead, UPA's Minister in charge asked journalists, if *they* were ready to handle the change. Rather than blaming the government, arguing that their policy was no longer antagonistic about the internet or new media forms, he called on the journalists to come up with a better framework of self-regulation. On the issue of abandoning his own post, which after all was the symbol of historical institutions of policy, he simply tossed the question back, asking the journalists in response: 'Who do we give statutory powers to? What if the industry body splits tomorrow? (sic) Where will it leave the self-regulatory authority?'[90]

These deliberations confirmed the extent to which a new politics around media policy was turning towards questions of self-regulation. This new politics rendered institutions like the Ministry of Information and Broadcasting marginal while reviving an ideational contestation that had not been witnessed for decades. It was however only when the central government changed hands in 2014, that the deeper change and continuity in policy came into sharp focus. It brought into the public the evasive discourse adopted by the *Hindutva* forces while at the same time testing the alternative alliance on questions that far exceeded the problem of intermediary liability or the internet related policy *per se*.

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[89] See Appendix 2.2 for more details regarding IAMAI 'Digital summit'.

[90] Comments made by the Minister Manish Tewari at a panel of television news media journalists organized by the Observer Research Foundation on the theme of "Media Regulation: Is Status Quo the Answer?", Observer Research Foundation, 6 August, 2013

Ideational polarisation and media policy after 2014

It would be fair to say, based on the analysis so far, and especially since 2014, the emergence of the internet has proven to either make a permanent break from the past or a continuation of policies. Soon after it won the election, which saw the BJP claim an absolute majority in the Parliament, their strategy was to use this power to mould the new media into its own image. In contrast, the alternative ideational alliance has tried to coordinate a response that focussed on themes of citizens' rights and self-regulation of the press in a rapidly evolving media system. As the result of this ideational stalemate, no new bill has been tabled since the Parliamentary review on the IT Act. But the policy change has sustained since it has become part of wider public deliberations, particularly around themes of intermediary liability.

Once they returned to power, the BJP-led National Democratic Alliance first picked a senior party leader Arun Jaitley, an emergency era veteran of the *Hindutva* youth brigade, and later popular Hindi entertainment star Smriti Irani as its Minister for Information and Broadcasting.[91] All the while its leadership continued to use new media platforms for ideological agenda to the extent that members of its IT Cell and allied groups openly spreading hateful and communal messages against Muslims and independent journalists online.[92] Meanwhile, their Communications Minister, a former member of the Standing Committee that had deliberated on the IT (Amendment) Act in the mid-2000s, limited his

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[91] Smriti Irani is the most visible icons of BJP's cultural nationalism. She was also the party's candidate against Congress' party's PM candidate Rahul Gandhi in 2014. For details of the Ministry of I&B efforts to monitor online media see "Smriti Irani Reveals Modi Government Plan to Monitor, Regulate Online New", The New Minute, March 20, 2018 (Accessed June 2018).

[92] The Prime Minister himself helmed both the campaigns, goading on members of the IT Cell use platforms like Facebook and Twitter to spread their ideology. For instances of PM Modi following Twitter accounts that have caught rights activist attention for their communal and hate speech online. See https://news.vice.com/en_us/article/zmqaq3/modi-might-be-the-only-world-leader-whose-twitter-use-is-more-problematic-than-trumps (accessed April 2018)

role to promoting Digital India rather than debate the framework for addressing concerns regarding intermediary liabilities.[93]

But beyond the Parliament, ideational polarisation has deepened to such an extent that the NDA government could not reverse the drift in policy even as it returned to power. This is precisely what happened in the case of a landmark Supreme Court verdict which heard a range of public interest petitions were filed in various courts in India, many of them directly targeting the Section 66-69 and seeking clarity on the question of intermediary liability under the Section 79 of the IT Act. While it repealed sections of the IT Act of 2000, which as discussed earlier had allowed discretionary powers to the political elites to censor and gag online media, in its judgment the Supreme Court also provoked a much more public deliberation that ensured that alternative ideas about IT and FOSS technologies gained ever more traction among various social and political groups.

In its judgment, while it accepted that the IT (Amendment) Act had exceeded the constitutional framework, the court also highlighted that there had not been any substantial policy debate that was the Parliament's primary prerogative. In a blow to the Hindu nationalist government, the Court not only struck off Section 66(A) but had underscored the significance of intermediary liability in the context of constitutional framework of self-regulation.[94] From a DI perspective, this reflected the way in which new ideas, and dissent against *Hindutva,* was now recognised as part of policy and the debates that followed the line set by prominent FOSS NGOs that had deposed in the Parliament earlier. Even the fact that that the primary litigant was a lawyer, associated with the Center for Communications Governance, who represented the two women

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[93] Based on interviews conducted with media policy advisor for several leading companies. For details of Prasad's involvement see With Convergence Out, Prasad Pushes Broadcast Authority", in the *Financial Express*, 26 September 2003

[94] Supreme Court of India, Shreya Singhal vs Union of India, 24 March 2015

who had been arrested at the behest of a regional *Hindutva* allied party Shiv Sena in 2012, only institutionalised the new politics of media policy in the wider public arena.[95]

In their response, which I could gauge through my interactions with the journalists covering the party and commentary online, *Hindutva* groups attempted to frame public activism against the law in terms reminiscent of the global right-wing and its campaign to malign human rights-based discourse (Bob 2012). For *Hindutva* parties, like their peers internationally, the judgment was simply another opportunity to claims as a vindication of right-wing ideas about free speech.[96] Since then its cultural nationalist icons, including the Minister for I&B Smriti Irani, has floated multiple ideas to initiate policy debates including more 'regulation' of social media, but the government has faced stiff resistance from 'experts' who are now heard both within the Parliament and beyond.[97]

In contrast, the alternative alliance of FOSS technologists, progressive media activists and Left parties have been able to demonstrate that the Court's judgment was simply a call to action especially in terms of strengthening communications policy. In the context of the repealing of sections of the IT Act, the CPI (M) publicly celebrated the verdict as a challenge to the 'draconian' elements in the law but went further to demand a wider debate on media policy. For many activists in Delhi the judgment had given a new impetus for policy deliberations on the range of issues including intermediary liability. Meanwhile, in Bangalore, FOSS technology activists and allied interest groups understood that the Supreme Court had left the

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[95] "Section 66A: 21 petitions that changed the system", The Indian Express, March 25, 2015

[96] Ibid.

[97] "Cyber Law Experts Wary of I&B Ministry Move to 'Regulate' Digital Media", in The Wire, April 25, 2018

decision to the political parties and the Parliament, and saw the judgment as a case of 'a cup half full and half empty.'[98]

Conclusion

After two decades since television news broadcasting had become the central feature of India's media landscape, there was little debate on the problem of self-regulation. Meanwhile as digital media and online networks which had only just started to transform the media system, it already drew new ideas into the policy agenda. If in the early years most political parties saw the World Wide Web primarily from a narrow perspective of reaching NRI audiences and interpreted regulation in technological terms, two decades later their attempt to frame the problem of new media within the contours of IT Act had produced an extraordinary response from FOSS technologists, bloggers and political activists who succeeded in enabling a progressive shift and forced a debate in the Parliament on substantial problems of media policy.

As this chapter shows, while focussing narrowly on technology the Congress initially continued to frame the problems under the IT Act, which linked question of liability to changes in IT rather than social use of new media platforms. However, alternative ideas upended these efforts, and an alliance with democratic Left parties with FOSS groups framed the 'crisis' in self-regulation in terms of intellectual property and citizens' rights rather than cultural nationalism which dominated the debates around mass media. In the next chapter, I will continue to analyse these changes and consider another crucial domain in which IT related activism made a real impact; on efforts to address the problem of surveillance and efforts to restrict the powers of the state and large corporate entities through communications policy.

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[98] Abraham, S. "Shreya Singhal and 66A" in <u>Economic & Political Weekly</u>, Vol. 50, Issue No. 15, 11 April 2015

Chapter 7

Cultural nationalism and beyond: New politics of communications policy

The changes in media policy since the emergence of the internet, discussed in the previous chapter, also have had implications for the debate around surveillance and safeguards for citizens' rights in communications policy. At the systemic level, given the constitutional framework which guaranteed safeguards from coercive powers of the state, the main issue in media policy is of self-regulation by the press. However, in communications policy the state has a more central role and the primary challenge is to safeguard the communication rights of citizens online while making access to these networks more democratic. In this chapter, I explain why surveillance related concerns have become central to communications policy and relate it to the emergence of new ideas and technology activism aligned with internet that have reframed policy problems in a distinct fashion.

Until the 1990s, as discussed in the earlier chapter on surveillance, we saw how interception of messages and mass surveillance had been routinized through an evasive discourse of cultural nationalism. In this chapter I show that a change occurred, which followed closely in step with the new politics of media policy. I show that once again it was an alternative alliance between technologists, new media activists and political parties that combined to bring forward a 'coordinating discourse' (Schmidt 2008) around the idea of online privacy which contested the framework of *Hindutva* cultural nationalism in the context of communications policy. Unlike the debate in the era of satellite networking, where a communicative discourse of fear of 'foreign' influence took hold of the policy agenda, in the case of the internet, there has been a policy shift towards recognising citizens' communication rights and autonomy online even as an ideational contest continues underneath.

In theoretical terms, the chapter adds to the literature on discursive institutional role of technology related ideas, and further develops the argument made in the previous chapter. Moreover, I show that the Free and Open Source Software technologists using these networks played a more crucial role than their predecessors who in an earlier era had become marginal to policy debates. It was their free spiritedness and ideational activism which challenged the consensus in communications policy. In particular, I show how new ideas proved to be a solid resistance to *Hindutva* by moving reframing concerns of cultural nationalism and mass surveillance, including in the context of India's participation in international communications negotiations.

Beginning with the debate on licensing of Voice over Internet Protocol (VoIP) and the proposed automisation of surveillance, I show how ideational contentions developed with the discourse of privacy entering the policy in the late 2000s. A policy shift followed and was further institutionalised at the time of the Snowden revelations which also brought with it a backlash against progressive reforms. The chapter concludes by discussing why the change is not simply one directional and that the dynamics that emerged in the mid-2010s could also reverse given an activist turn in Hindu nationalist politics of metadata and encryption. The latter have again revived a cultural nationalist idea of 'Indian data within Indian borders' and it could eventually marginalise alternative ideas both in policy agenda as well as at the level of the media system as a whole.

Surveillance debate and communications 'convergence'

As discussed in the previous chapter on the history of communications policy, until the 1990s discretionary powers under the colonial era laws allowed Union governments and official agencies to evade a public debate on the problems of surveillance. Even as new technologies emerged through the course of the 20th century, themes of cultural nationalism rather than

socialist ideals provided a discourse that sustained policy even in the absence of strong coordination among licensing agencies, technology users and various IT related interests in telecommunications. As in the case of press and media policy, the question of rights of the citizens remained marginal in the policy agenda. In the era before the internet spread its roots in the sector, the cultural nationalist politics also ensured that debates around surveillance hardly changed even as satellite networks were used for transnational data transfer by the IT sector.

In line with the consensus, discussed in Chapter 4, successive governments also endorsed international norms as long as they allowed member states to retain their dominance over communications and data flows within their territories. In 1989, India was quick to endorse a new set of International Telecommunications Regulations (ITRs) which allowed the member states to stop the 'transmission of private communications' that 'may appear dangerous to the State or contrary to their laws, to public order or to decency.'[1] This consensus only marked a further weakening of the coordinating discourse, particularly in terms of ensuring that executive branches of the telecommunications bureaucracy would be able to understand and respond to the demands arising with the rise of the internet in telecommunications.

It also reflected a decline in the capacity of official licensing agencies to build rapport with the IT sector and allied FOSS groups which were directly engaged in developing the use of computer networking in telecommunications. As discussed earlier, this had been the case in even in the context of satellite networked projects like the ERNET, but was now particularly true in the context of the licensing of online communications which required stronger coordination between the Department of Electronics and IT (known as DEITy until 2016 when

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[1] International Telecommunication Regulations (ITRs) were signed under the aegis of the International Telecommunication Union, Geneva. Published by ITU, 1989 ISBN 92-61-03921-9

it was separated into a separate Ministry of Electronics and IT) and the Department of Telecommunications (DoT) which came under the common Ministry of Communications and IT at the time. The officials in DoT insisted on adhering to existing ITU approved framework, and got their way in setting the licensing rules.

As had been the case in the past, and as a founding member of the National Computer Science and Technology (NCST) put it, computer science and networking experts in official agencies chose to 'work quietly' rather than engage with the state's telecommunications licensing agencies or publicise the limits of ITU's capacity to deal with emerging applications.[2] While it certainly helped the scientists 'diplomatically avoid spending a few years of our lives on OSI Protocols (favoured by the DoT)'[3], their acquiescence reflected the gradual erosion of internal coordination essential for a cohesive communications policy in light of digital convergence underway.

The 1980s and 90s, after all witnessed monumental shifts in the growth of digitalisation of telecommunications with the question of social inequalities and privacy becoming a worldwide concern. In India however, the rise of ICTs was largely framed in terms of India's potential as a software exporter, or in terms of developing physical infrastructure that was defined in terms of helping India 'leapfrog' into the digital era (Singh 1999). Even as successive governments made structural reforms, no progress occurred around the ideational context, with the question of surveillance barely mentioned in any policy debate either under the Congress that initiated reforms in the telecom sector and actively ignored under the BJP led coalition which rose to power in the late 1990s.

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[2] Ramani, S. "The story of how the Internet came to India: An insider's account" in Netch@kra: 15 Years of Internet in India, Retrospectives and Roadmaps, ed. Madanmohan Rao and Osama Manzar, published by the Digital Empowerment Foundation, New Delhi, 2011

[3] Ibid.

To be sure, India's telecom markets-based reforms involved multiple and complex interactions between various levels of government and historical path dependencies from the previous era (Singh 1999, Mukherji 2014). However, when viewed from the lens of communications policy, it becomes obvious that infrastructural changes were hardly a marker of change as far questions of citizens' rights were concerned. First initiated under the Congress leadership that launched a New Telecom Policy (NTP) in 1994, the structural changes accelerated under the BJP-led government. From a discursive institutional perspective, these developments were driven not only by pre-determined interests but also aided by the ascendance of Hindu nationalism that mediated policy process at crucial moments as far as problems of surveillance in telecommunications was concerned.

For instance, when the NDA government reformulated NTP 1994 after it rose to power in the late 1990s, and enacted the New Telecom Policy in 1999, it focussed entirely on privatising telecom service provision rather than open a wider debate on policy and technology. It also ignored the smaller Internet Service Providers (ISPs) licensed under first NTP launched earlier in 1994 by the Congress. In line with its ideological bent, this transformation relied on parleys with private telecom service providers and supported by the DoT that had long ignored privacy related concerns in the context of satellite networking. In fact, the BJP leadership did not have to work very hard since the pro-business liberalisation, under the Congress, had already led to passage of laws in the context of cable television and satellite networking which had prioritised the ability of the state to be able to monitor transnational flows rather than safeguard rights of the citizens online.[4]

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[4] Cable Television Networks (Regulation) Act, 1995 and Cable Television Network Rules, 1994.'

In a lesser known episode, in 1995, even as a *Hindutva* wave swept across various states, following the Supreme Court's judgment around the question of licensing of airwaves, the Congress-led Union government had hastily introduced new guidelines drafted by the Department of Telecommunications. As per these guidelines, all broadcasting networks had to report any change in 'uplinking' facilities and share the IT codes with the licensing agencies.[5] Now as the debate about internet access and services became a crucial issue in communications policy, the BJP took a leaf out of the this framework and proceeded to frame the debate in similar terms, letting the DoT to deal with the difficult question of concerning the rights rather than deliberate with FOSS technologists engaged in developing new applications for the web-based networks online.

Unlike the telecom policy (NTP 1994) which was launched by the Congress party, the NTP 1999 was by no means just another instance of a 'pro-business' ideology which has been argued to be the salient feature of the politics of economic reforms in India since the 1980s more generally (Kohli 2006). Particularly in the context of setting the guidelines for cellular and online Voice over IP (VoIP) services, the *Hindutva* party politics understood it as an opportunity to enhance their discourse of cultural nationalism and subdue any question of the rights of the citizens online. As discussed in the previous chapters, since independence *Hindutva* political leadership taken advantage of a *lack* of debate on surveillance, and in avoiding an open debate on the internet related VoIP technologies, the BJP gave itself ever more control over the state's surveillance machine.

In a telling moment, even as the Department of Telecommunications (DoT) issued only those licences that adhered to ITU standards for electronic mail services, the political leadership

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[5] These provisions have since been used by the BJP government, particularly the sections relating to 'Programme and Advertising Codes' prescribed under the new law. Ibid.

made no effort to deliberate the issue with smaller ISPs or FOSS developers who had challenged the licensing guidelines in the courts.[6] An ITU member and veteran participant in India's ITU related negotiations told me,[7] and an observation I often also made in the course of my fieldwork in Delhi, that there was a 'mind-set' problem in decision-making in the telecommunications bureaucracy. But this 'mind-set' had been actively nurtured by political elites in the past, by framing the problem of surveillance in technical terms and letting the licensing bureaucracy deal with difficult questions.

It was in this context, while it prepared the ground for the New Telecom Policy in 1998, that the NDA government had also ignored the Communications Convergence Bill which had been drafted to overcome precisely these changes in light of ongoing digitalisation of communications and rise of the internet-based voice services. In trying to retain control over the media policy, particularly their ability to hold onto the cultural nationalist framework, the NDA overlooked demands for bringing all regulation of telecommunications 'carriage' services along with 'content' related policy under a new super-regulator. Instead, they let technological challenge to be handled by licensing bureaucracy assuming that they could engage large corporate interests in the cellular mobile sector to build a consensus on questions ranging from encryption to the rights of the citizens in the various guidelines issued under the Indian Telegraph Act of 1885.

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[6] As per the guidelines under the first NTP, issued in 1995, all private firms had to use the X.400 standards for electronic mail and these included the many online networks that allowed 'two or more subscribers to communicate with each other using electronically transmitted text messages from any standard alphanumeric terminal including personal computers. Based on personal interviews with members of ISPAI and FOSS technologists involved in the legal challenge against the Rules for Electronic Mail Service Providers Licenses, Department of Telecommunications (DoT), New Delhi, 1995

[7] Interview with a member of the policy NGO Internet Society participating in the international negotiations organized by the Internet Governance Forum in 2013. The interview was held in the context of the aftermath of Snowden revelations which were just coming out at the time in December 2013. For details see Appendix 2.1

On their part, driven by mutual commercial interests involving sky-rocketing licence fees for in the sale of telecom spectrum, in a process aptly described as 'celling India' (Jeffrey and Doron 2013), private cellular and mobile telecommunications license holders relied on another evasive discourse of digital inequality and divide which let them continue to block online VoIP services lest they upset their investment plans. The *Hindutva* laced pro-business approach however polarised the debate on communications policy and eventually, efforts to incentivise particular cellular technologies at the cost of building a stronger coordinative discourse of convergence provoked a backlash from FOSS technologists and allied interests in the IT sector.

In framing the issue of communications policy in terms of digital divide, the cellular lobbies also ignored crucial technical questions relating to encryption standards since they wanted to be able to monitor online data flows and block any Internet based VoIP services. In their defence, they argued that such services would further increase the digital divide. Having been given a free reign of telecom policy, they argued that the internet would only serve an elite urban PC consumer base while those at the bottom of the 'digital divide' would still have to rely on their mobile services.[8] Such an evasive, and obviously dubious, claim exposed the weakness in the policy framework, and opened a 'window of opportunity' (Kingdon 1997) for alternative ideas to find a footing in the public arena if not in the policy agenda.

Ideas, institutional learning and the coordinating discourse of privacy

These claims about digital divide represented a weak 'coordinating discourse' (Schmidt 2008) and relied on the BJP leadership and NDA government ministries to ensure that private cellular network lobbies were able to keep out the independent and amateur VoIP service providers

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[8] The lobby group for cellular network service providers Cellular Operators Association of India (COI) made this argument in the public debate that followed the ban. See Consultation Paper on "National Broadband Policy" Telecommunications Regulatory Authority of India, 2004

from reaching India's growing online user base. However, even as the NDA's executive revised the telecommunications policy and ignored the obvious realities of technologies and communications convergence, it tried to retain the discretionary powers available under the Indian Telegraph Act which. This required the acquiescence of the official scientific community which had been part of the historical consensus on themes of data security and surveillance in the past and were again brought on board in the context of VoIP debates.

However, this time around, many internet users as well as amateur developers of web-based VoIP communications began to question the policy framework that relied on threats by the licensing agencies against them. In particular, they questioned the licensing guidelines for 'electronic mail' and BBS services, issued by the DoT in 1995, that have the DOT a 'right to accept or reject applications without assigning reason.' These threats included monitoring users' private messages sent online and a complete disregard for citizen's rights was evident in another rule that stated that 'any officer specially authorized ... [can] direct that any message or class of messages ... shall be intercepted or detained or shall be disclosed to the Government making the order or an officer thereof mentioned in the order.'[9]

Such threats provoked a fresh response from amateur technologists who saw VoIP as a perfect tool to help *reduce* the digital divide rather than exacerbate it. In contrast to the cellular mobile framing, FOSS technology activism that had its roots not in specific industry but in ideas and discourse of technology, provided an alternative interpretation of its impact on media and communications policy. In particular, their ideas took emerged from citizens' groups associated with amateur-run Black Board Services (BBS) networks that, until the New Telecom Policy 1994, had remained beyond the purview of any existing licensing law.

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[9] Ibid.

As mentioned in Chapter 2, amateur FOSS technologists who built the earliest BBS networks were part of an emerging fora that could be seen as constituting a communications rights agenda in India. Over the years, at least since the late 1980s, FOSS based BBS-based discussions promoted collaboration and alliance building, ideas that recalled the spirit of 'ham' radio activism in a previous era of wireless networking. Often subversive, perhaps even illegal if we consider that many of these networks ran on modems that had been smuggled rather than licensed under the Indian telegraph era laws, BBS networks revived new ideas of reform not heard in decades. With the emergence of the internet and online experimentation, FOSS related technology activism brought with it new ideas and provoked a wave of policy engagement that gradually found its way in the debates around problem of communications surveillance.

In the late 1990s, initially the focus of technologists and amateur developers moved to the issue of VoIP with the question of rights remaining on the margins of their public engagement. In my interactions with FOSS activists, as well as a review of online discussion from the era,[10] it became clear that technology related activism in the late 1990s was not a result of any single idea or 'cyber manifesto'.[11] Instead, their political stance drifted gradually towards questions of policy over time. As Coleman (2013) argues, IT workers, and hackers in particular, provide a new kind of activist public that revels in state failure. In India too, online surveillance provided a context for such activism which related the rise of computer-mediated anonymity to demands of policy reforms and especially around curbing the discretionary powers of the

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[10] I have relied on information collected from the popular web-based email-lists like India-GII and 'Silk India' which is still active at the time of writing (last accessed in September 2016). For a detailed account of how Silk India came to be the hub for all kinds of political discussions, see "India's oldest general-interest mailing list, has been its Geek Central for 18 years," by Shrabonti Bagchi, on Factor Daily, September 2016. http://factordaily.com/silk-indias-oldest-mailing-list-history-geek-culture/ (accessed September 2016)

[11] In 1996, American libertarian activists had adopted such a 'Declaration of Independence' of the 'Cyberspace', which came to be associated with activist groups like the Electronic Frontiers' Foundation. The Declaration's author and musician John Perry Barlow even visited Bangalore in 1998, but such ideas remained marginal to the wider FOSS related activism in India. For details see https://www.eff.org/cyberspace-independence

state to monitor citizens online. To that extent, early activism associated with FOSS technology in India revived a sort of an alternative 'counter-public sphere' (Fraser 1992) which brought together a discourse that contrasted sharply with the celebratory rhetoric of 'leapfrogging' (Singh 1999) in terms of access to telecommunications, and instead put the focus on policies including the problem of surveillance online.

By the early 1990s, there were over 25 such BBS networks in India and each one included hundred and thousands of citizens, although almost all of them were based in Delhi, Bangalore or other large metropolitan centres in India.[12] As these groups migrated to the online fora and Listservs hosted on the internet, their ideas also transferred to wider audiences. In my interactions with FOSS technologists and BBS entrepreneurs, both in Delhi and Bangalore,[13] as well as progressive activists who were also understood policy aspects of these debates, I saw a deep mistrust of the law and the state's surveillance apparatus that was entirely missing in my interactions with officials in licensing agencies like the Department of Telecommunications.

Many of them, particularly FOSS technologists who had remained attached to the policy domain over the last two decades, attributed their initiation into politics of privacy to their interactions with like-minded groups in the international FOSS movement. Some even helped them in technical terms, leading them to exchange of new ideas online which were not limited to the corporate libertarian activists who often throng to digital rights debates in the US. These included the more socially oriented US-based groups like the Computer Professionals for

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[12] These observations are based on my review of the India-GII discussion online as well as interviews with several early users of these technologies in India, including the editor of the PC Quest which is widely regarded as the "Bible of Indian Software sector". Interview with Editors of Cyber-Media group and PC Quest, in New Delhi, February 2014

[13] This includes two in-depth interviews with founding members and active participants in policy debates from the India-GII group. Interview conducted in April 2014 and January 2015 in New Delhi. For details see details see Appendix 2.1

Social Responsibility (CSPR) which helpful in shaping the discourse and understanding of technology among many of the FOSS development community in Delhi.[14]

It was in the course of their transition from amateur run BBS groups to the internet and VoIP related communications policy debates first became a subject of online deliberations with the question of surveillance bringing many such groups together. The debate began on a prominent CSPR-supported Listserv called the India-GII (which stood for India-Global Information Infrastructure) that was formed in 1995 and had the topic of telecommunication reforms on the top of its public forum managed largely by amateur FOSS technologists in Delhi and Bangalore. By the time the VoIP issue gained significance in the course of national telecommunications policy review in the late 1990s, India-GII had had become a forum for 'techies, academics, bureaucrats, activists and people simply interested in a critical look at India's telecommunications and internet growth' in India.[15]

It was through such fora, particularly FOSS technologists active on India-GII, rather than from within the party-political context, that the debate around VoIP led to the problem of surveillance becoming a central theme in policy debates. A Delhi-based founding member of India-GII Arun Mehta, a graduate from the Indian Institute of Technology and also one of India's best recognised FOSS technologists at the time, even filed a petition in the Delhi High Court challenging the government's decision to ban VoIP and publicised the problem of the 'mind-set' in official licensing agencies which took surveillance as part and parcel of their powers. Contesting the viewpoint of cellular firms, Mehta used a new set of ideas to not simply

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[14] These observations are based on my review of the India-GII discussion online as well as interviews with several early users of these technologies in India. For the complete list of CPSR supported lists worldwide see: https://lists.cpsr.org/lists/lists (Accessed March 2015).

[15] 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)

argue against the discourse of digital divide but at the same time also underlined the way in which it could resist mass surveillance of citizens online.[16]

Besides demonstrating superior technological know-how than the licensing agencies that had issued the guidelines, the petitioner turned the debate into a 'window of opportunity' (Kingdon 1997) to showcase the complicity between official licensing agencies and surveillance of online communications. In his petition, the Mehta quoted from the public notification issued by the VSNL to its 50,000 internet service subscribers in 1998 where the officials threatened that it would 'be monitoring the use of internet and those subscribers who are found to be violating the conditions of subscription (i.e. using VoIP)'.[17] In framing the question of access in relation to the citizens' right to privacy online ensured that the issue gained public significance too. It marked the emergence of a new ideas which linked amateur technologists with political activists active in the field of communications policy.

Another crucial outcome at the institutional level was not only that the communications surveillance emerged as a policy problem again, but that it created opportunity for social and political 'learning' (Hall 1993, Schmidt 2008) among political groups that barely showed any interest, or experience, in information technology in the past. As a founding member of the India-GII, and a regular participant in the FOSS gatherings, told me in Bangalore, the VoIP debates changed the dynamics of technology-related political activism in India. Speaking on the impact of VoIP debates on FOSS related activism he argued: 'Everybody knew everybody

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[16] An avid technologist Arun Mehta argued in the court that "Net telephony is packet-switched whereby the available bandwidth is shared among all users. Sophisticated compression techniques allow Net telephony to carry 16 phone conversations on a line on which conventional telephony only carries one". For details see Writ petition filed in the High Court of Delhi, (Civil) No., New Delhi High Court,1998

else, it seemed, and the air was thick with ideas, jokes and (usually friendly) insults. Quite the collegial atmosphere (sic). Ideal breeding ground for activism, should it be needed.'[18]

Convergent technologies, divergent ideas

It was this 'collegial atmosphere', somewhat similar to a network of 'weak ties' (Granovetter 1973) that also enabled a form of networked learning among computer professionals who would mostly connect with their peers through BBS and email Listservs at the time since the VoIP issue was barely reported in the mass media with coverage restricted to the business press. However, as commercial stakes in online communications policy grew, with the emergence of new and ever more secure applications that made the internet ever more central to the growth of communications sector, it also drew participation from ideological and partisan actors. A change visible as news about the internet moved gradually from inside pages of business press into the political mainstream.

The most prominent interventions came from the Left parties that had been opposed to the nature of economic reforms in the 1990s and as they began to engage in these debates, it was the FOSS technology discourse of privacy online that played a crucial role. Their understanding of VoIP moved from being a 'counter public sphere' (Fraser 1992) to a central 'coordinating discourse' (Schmidt 2002) in the context of communications policy. This transition redefined their activism but also changed politics of communications at large. In particular, it made political parties take more interest in the problem of surveillance online, a change that again involved political groups from the Left of the political spectrum.

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[18] Based on an interview conducted with IT entrepreneur and member of India-GII, in Bangalore, January 2015 (Quote taken from his online blog, no longer available online)

Several social activists and progressive civil rights activist groups as well as parties like the CPI (M) had resisted the ways in which telecom liberalisation and structural reforms had taken place since the 1990s. Their motivation, as I discovered in the course of my interview with members of NGOs such as the Society for Knowledge Commons were as much for ideational purposes and for partisan interests. Gradually new ideas and political interests started move away from the *Hindutva* politics of communications policy, which had never addressed the social dimensions of technological change and were in power at the time of the VoIP debates in the early 2000s.[19]

As had been the case in the early debates around new media policy, many Left parties initially took to these debates primarily in line with their partisan agenda and saw privacy as a means to reframe the problem in terms that seemed convenient. Taking note of the problem of surveillance in the proposed legislation on technological convergence, the Communications Convergence Bill, the CPI (M) leadership focussed mostly the structural dimensions rather than challenge the cultural nationalist ideas advanced by the *Hindutva* leadership. As discussed in the previous chapter, CPI (M) MPs did seek a debate on the IT Act but the question of privacy wasn't their primary concern at the time. Similarly in criticising the legislative draft of the Communications Convergence Bill, CPI (M) leadership merely observed that the draft legislation had 'no requirement of establishing the need for such tapping of private communications' let alone call for a broader debate.[20]

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[19] This point came through in my interviews with prominent FOSS campaigner and Communist Party of India (Marxist) activists, many of whom were very well versed in the discourse of social informatics and FOSS unlike their peers on the right who seemed to prefer a mass media approach. Interviews conducted in Delhi and Bangalore. March 2014- January 2015.

[20] "Convergence Bill 2000 or a Con Job on the People!" People's Democracy, Vol. XXV, No. 36, 9 September 2001

While acknowledging that the 'desire of the government to tap is enough', Left parties largely focussed on more grassroots aspects and use of IT and began partnering with movements like the Free Software Movement of India (FSMI) which had flourished in many of the southern Indian states. Many of them did not concern themselves with question of online surveillance to the extent that many FOSS technologists associated with groups like India-GII would have preferred. At most, the CPI (M) saw the Telegraph Act as 'outmoded' but not a cause enough to demand policy debates as petitions against the VoIP guidelines had stated in the course of the VoIP debates.[21]

This thinking changed partly due to the developments in online communications which converged with telecom networks, and partly the reason was the change of governments in 2004, when the Left parties emerged as primary supporters of the Congress led United Progressive Alliance (UPA) in the Parliament. This was a time when new online instant messaging and online 'social networking sites' (SNS) and platforms like Facebook became more popular than all other applications in India.[22] These also included the instant messaging applications that came loaded on the internet linked mobile handsets. One such service was the BlackBerry model offered by the Research in Motion (RIM), which introduced the idea of 'end to end' encryption. As these services expanded in India, the problem of surveillance became more acute, since it further exposed the weakness in the licensing regime and put the focus more firmly on the need for policy reforms.

In particular, the technical dimensions like encryption constituted an important aspect in communications policy and had implication for the licensing of online services. Over the years,

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[21] Ibid.

[22] Facebook arrived in India at the same time as in many other parts of the world, and since 2007 it has seen faster rates of growth. See "Facebook says India user growth faster than rest of the world" in LiveMint , September 15, 2016

particularly since the development of VoIP services, several encrypted online service providers approached the DoT seeking a licence for marketing their products in India, which included companies like RIM that offered exclusive end to end encrypted BlackBerry devices. When it applied for a license in September 2007, the RIM request was initially turned down by licensing agencies like the DoT. However, in subsequent months, as had been the case in the past, following closed-door discussions with the officials in telecommunications ministry, major cellular services vendors were given access to Indian markets. By early 2008, the BlackBerry services had over 100,000 users and in spite of the fact that it operated well above the prescribed levels under existing telecommunications policy guidelines.[23]

Following conventional practice, the UPA leadership had simply let the DoT set these technical standards, and in turn the licensing agencies had again passed on the matter to be resolved by the industry while assuming the licence holders would work out some compromise. Surely the affordances of such devices were important in their own rights, but in the absence of a strong policy, a sense of crisis developed around theme of surveillance and privacy of users online. This sense became more acute in the public domain, following a major Mumbai terrorist attacks in November 2008. In the course of investigations, when it was revealed the attackers might have encrypted handsets, national security agencies threatened to shut down all such devices in India until the parent company handed over the encryption keys.[24]

The policy framework under which the licensing agencies had overlooked crucial question of technical standards exposed the long-standing weakness in India's telecommunications policy. It concerned coordination in policy between IT and telecom branches of policy, and created

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[23] "BlackBerry", Annual Report, Research in Motion – 2008

[24] The Mumbai attack investigation indicated that encrypted conversations were being used by those who crossed the border into Mumbai. See "India threatens to suspend Blackberry by 31 August", BBC News, 13 August 2010

another opportunity for the opposition to frame this 'crisis' and offer a diagnostic ideational context (Beland 2009) which paid more attention to themes of social and security aspects rather than attack the technology *per se*. The extra-ordinary publicity to the BlackBerry case and the complete lack of ideas within the licensing regime did not immediately lead to policy change, but set in motion a fresh debate about the need for reforms. Moreover, in 2008, facing another crucial election, the focus of UPA's political leadership as well as most of the opposition remained focussed more on the issue of structural reforms. In this context, the existence of corruption in the licensing of mobile services marred the fact that in the late 2000 India had the second highest number of cell phones in the world, a fact often cited in claims about India being a 'cell phone nation' (Jeffrey and Doron 2013).

Following the template set under the NDA's telecom policy, cellular mobile operators were given the responsibilities of managing their services under the existing licensing regime, and as long as they brought revenues flows in the office, and often personal coffers, of UPA's leadership especially from its regional allies. [25] All the while, officials in the Department of Telecom assured consumers that 'there is no need to ban the BlackBerry operations,'[26] while the Parliament also overlooked the possibility to use this opportunity to revive any legislative debate on the convergence bill which could have addressed policy problems across telecom sector including online communications. Even as the BlackBerry case dragged on until 2012, when reports 'indicated that the deal included a compromise,'[27] by the time, it was the problem of mass surveillance that emerged as a counter discourse in the policy arena. This led to further

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[25] For details about the rise of corruption in telecommunications, see Guha Tahkurta, The big money lurking behind India's 'telecoms scam'", BBC.com, 15 November, 2010

[26] "No plan to ban use of BlackBerry" in The Hindu, 15 March 2008

[27] See RIM gives India access to BlackBerry messages, The Star, September 2011

polarisation not simply along party political lines but increasingly on the question of privacy and rights of Indian citizens online.

Communications policy, technology and 'automised' surveillance

Moreover, since the mid-2000s, the UPA governance had initiated a legal review of the Indian Telegraphy Act of 1885 which brought further policy attention to the issue of surveillance. Following the judgment in the People's Union for Civil Liberties vs. Government of India case in 1997,[28] the UPA government reviewed the existing framework relating to lawful wiretaps under the Indian Telegraph Act and eventually introduced guidelines to ensure greater public oversight of communications surveillance in 2007. As part of the amendments to the Indian Telegraph Rules (1951), new guidelines were introduced under the Clause 419A, which laid out a clear line of command to be followed before ordering surveillance of telecommunications in India.[29]

However, in the course of the review a more public policy dimension was not brought forward by either the Congress or its primary *Hindutva* opposition. As discussed in the previous chapters, historically the discretionary powers of the state and political elites came precisely from such a *lack* of debate, which sustained potential misuse of surveillance since the colonial era. In the course of the Parliamentary review, there was a possibility that UPA government could shift from this path dependence by focussing more on the privacy, ending the discretionary powers under the Indian Telegraph Act that had been passed more than century ago. However, as in the case of the Experts' Committee review of new media policy, the UPA

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[28] PUCL v. Union of India, Supreme Court of India, AIR 1997 SC 568

[29] As per Section 419A "Directions for interception of any message or class of messages under Sub-section (2) of Section 5 of the Indian Telegraph Act, 1885 (hereinafter referred to as the said (Act) shall not be issued except by an order made by the Secretary to the Government of India in the Ministry of Home Affairs in the case of Government of India and by the Secretary to the State Government in-charge of the Home Department" Indian Telegraph (Amendment) Rules, Official Gazette, 2007

leadership avoided moving too swiftly, and instead relied on technology and a framework of 'automised' surveillance to cover the privacy related weakness in policy coordination.

This time however, the presence of IT sector interests and FOSS technologists proved crucial and as more and more citizens in India came to join 'social networking' online, such efforts to narrowly focus on automisation through technology proved counter-productive. In 2006, the UPA proposed an Orwellian idea of Centralised Monitoring System (CMS), through which it sought to address the problem of surveillance and argued that such a move to an automised monitoring would limit the power of local authorities to misuse the discretionary powers under the Indian Telegraph Act. Its political leadership, found wanting in terms of ideas concerning the social implications of online networking, even argued that unlike the existing system where 'secrecy can be easily compromised,' in the case of the CMS surveillance 'will be performed on secured electronic link and there will be minimum manual intervention.'[30]

But unlike the cultural nationalist framing of satellite networking, when Prime Minister Indira Gandhi promoted a cultural paranoia-laced discourse of satellite networks, the UPA leadership had sought to narrow down the debate to themes of automisation. At the time, in 2007, the UPA leadership was already negotiating a consensus around broadcasting regulation and also hosting the internal expert review of the IT Act, and hence a more public debate on the question of surveillance did not appeal to its leadership. Instead it hoped that automisation-based proposals would resolve the problem and its leaders assured the industry and privacy activists that the CMS would actually 'enhance user privacy.' When questioned by its allies from the Left parties which at the time, in 2006, still supported the government in the Parliament, the UPA Minister

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[30] Congress MP Gurudas Kamat, also the junior Minister of State for Communications and Information Technology, made the statement in the Rajya Sabha, 26 November 2009

for Communications argued 'there will not be any necessity of taking the authorisation of the nodal officers of the telecommunications service provider.'[31]

Just as in the related domain of media policy, in the context of dealing with the problem of surveillance, such half-hearted and narrow focus on technology eventually opened the policy debate to new ideas and technologists who were able to take advantage of this reliance to deepen their role in policy. Instead of shutting down the debate, automisation put the public spotlight firmly on the question of computer-mediated surveillance and themes of IT that had rarely been mentioned, let alone debated in satellite era negotiations between the DoE (now DEITy) in the context of licensing of transnational data transfers. In the mid -2000s however, it brought in new IT sector interest groups into the policy agenda and provided FOSS technologists an opportunity to engage more thoroughly, marginalising the IT czars whom the UPA had chosen for institutionalising the role of IT in the telecommunications sector as well as other domains of public policy.

While the NDA government had let large cellular mobile networks lobbies frame policy in terms that fit well with its *Hindutva* ideology, in the case of the UPA their lack of ideological commitment and a growing reliance on ideas about automation and technocracy at large, made it ever harder for them to coordinate policy and build consensus. Here it is again important to underscore that unlike the case of satellite era debates or even those around 'Asian telecommunity' when Indira Gandhi could frame problems of 'free flow of information' in cultural nationalist terms, in the course of the internet debates, the lack of ideological consistency proved vital, particularly in the way the UPA's technology czars failed to build a hold the consensus in the following years.

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[31] Ibid.

The leading IT advisors picked by the UPA government to act as its interlocutors included Sam Pitroda, an electronics and communications engineer who had also been part of two previous Congress dispensations and had returned from the USA to helm the telecommunications development 'mission' in India that prioritised deployment of computer and ICTs in the service of 'development' (Sharma 2009). The other prominent IT hand, also given an equivalent of cabinet minister rank position within the UPA administration, was the former CEO of the Bangalore-based software-export and outsourcing firm Infosys, Nandan Nilekani. He was given a broader mandate to bring a 'technology revolution' through the use of IT in the social policy sector, an attempt that led to the Unique Identity (UID) scheme that aimed at giving Indian citizens a unique digital identity.

But given their lack of interest or even recognition of the problem of surveillance and more broadly the social implications of IT, their presence only ensured that themes of encryption and biometrics drew more and more attention from the social activists into the debate around communications policy. Given their proximity to the IT sector, with Nilekani having worked for decades in Bangalore, and Pitroda with his experience in international telecommunications, a possibility to negotiate some kind of consensus around the existing policies was not far-fetched. On several occasions, between 2008 and 2012, both of them also met internet-technology pioneers including Tim Berners-Lee (credited with creating the World Wide Web) to discuss FOSS related trends in the use of online networks in India's telecom sector.[32] But on pressing problems in communications policy, particularly in the context of the lack of surveillance related reforms, neither Pitroda nor Nilekani made headway in addressing the core challenge.

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[32]In March 2011, Pitroda and Nilekani organised a seminar by Tim Berners-Lee at the Planning Commission to discuss "Next generation of semantic mobility and the idea for an open government", "A day in the life of Sam Pitroda", Rediff.com, 23March 2011

On the question of telecommunications policy, Sam Pitroda limited the focus again to the themes of infrastructure and access. In spite of holding a cabinet rank position and a popular image as the UPA's IT czar in the telecom sector, he had little to say about the contentious surrounding online surveillance, his silence on such controversial proposals like the CMS made him look even less effective in the policy domain. Even his attempts to reach out to the FOSS and Internet savvy activists, sometimes by hosting LIVE press conferences on YouTube, seemed like desperate attempts to remain relevant in the context of online communications policy debates. The fact that the issue of media policy and lack of progress on convergence related laws was already becoming a subject of polarisation meant that a more political engagement for which the technocrat was hardly prepared. As Sunil Abraham, Director of Bangalore based FOSS and privacy rights CIS pointed out in 2008, 'One government bureaucrat available on Twitter for a fixed period does not make up for the non-existence of the government on social media.'[33]

If Pitroda struggled to mediate effectively between IT experts and telecom interests associated with communications policy, his colleague and fellow cabinet-rank IT advisor Nandan Nilekani ended up further polarising the debates around the problem of surveillance. In fact, the Unique Identity (UID) project provided privacy rights activists and allied FOSS technology and Left party groups with the single most important opportunity to gain an entry into the policy arena and take their ideas into the very heart of communications policy debates at a time when the *Hindutva* forces were still struggling to regain power in Delhi. Their ideas that had originally been restricted to online fora and occasional litigation now gained a discursive institutional form, when they began to provide a framework for reform, not only in the context of online communications but on a wide range of telecom related social policy issues.

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[33] "Pitroda seeks to put govt information in public domain", in <u>Live Mint</u>, 25 September 2012

In other words, their ideational challenge upended institutional path dependencies; where there was continuity in the past, there was now gradual change in policy towards recognition of privacy as a basic right of citizens communicating online. This change occurred partly because the UPA began to reconsider its approach in light of the difficulties it was facing in public and policy deliberations. By 2010, in the Parliament, even as legislative proposals concerning UPA's digital communications mission estimated to run into thousands of crores got stalled due to wider political contentions,[34] FOSS technologists and allied privacy activists took also contributed to the change. They did so by taking their arguments to a wider set of social policy activists with 'the objective of raising awareness and sparking a dialogue around issues of privacy.' [35]

Beginning with a first of its kind pan-India 'privacy dialogues', launched hosted among others by the international NGO Privacy International, the absence of UPA's IT advisors provided FOSS technologists more and more central in policy than ever before. The reluctance of the UPA leadership in the late 2000s also emerged from the growing sense of a crisis in media policy, as recounted in the previous chapter. Now as the issue of communications policy witnessed growing opposition from FOSS groups, it began to engage more directly with the discourse of technology inflected ideas of privacy which became the basis for an alternative coordinating discourse of policy.

In the wider public arena, technology related ideals of anonymity and privacy provided a shared 'master frame' (Johnston 2002) that brought together IT sector interests with social policy related activism which in turn had rarely taken a deeper look in the potential of IT and FOSS

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[34] For an account of the twin UID and PII projects see Harlankar, S. "Play it again, Sam", <u>Hindustan Times</u>, October 10, 2010

[35] Notes collected during the fieldwork on the "privacy dialogues" hosted by the CIS and Privacy International, 2011

technologies. In discursive institutionalist sense, the 'privacy dialogues' achieved what the UPA IT wizards could not. Rather than the internet related infrastructure development, privacy and citizens' rights framed the problem of surveillance, and brought in a range of social issues into the policy debates which had rarely been addressed under the various national telecom policies.

A critical examination of the various themes that were raised in the course of the FOSS technologists-led 'privacy dialogues' held in 2010-2011, also shows the emergence of a new political inclusive discourse of rights that had direct implications for telecommunications policy. In these dialogues, held across various cities in India, themes that featured including those concerning minorities facing communal violence and bias as well as question of the rights of citizens living in regions like Kashmir and north-Eastern India. These questions had historically remained marginal particularly with the growing dominance of cultural nationalist ideology of *Hindutva* in the 1990s.[36] Beginning with a handful of BBS networks in the 1980s, FOSS groups now directed the discourse of technology to address scores of such social issues and brought in social movements and grassroots associations which had never directly engaged in problems of surveillance in communications policy.

The discourse of privacy also worked in tandem with technology related activism by groups like the Right to Information movement, particularly from its leaders who had historically opposed to the *Hindutva* politics. In particular, the FOSS related technology activism and its discourse of privacy online became a means to bridge the gap between two major strands of India's 'communication rights' (Thomas 2014) and brought the Right to Information politics to align more closely on the issue of surveillance related policy reforms. The RTI movement

[36]Ibid.

in India has had a long history of not only demanding more accountable government but also and perhaps more crucially resisting the communal hatred against minorities and other subaltern groups in the name of 'hyper-nationalism'.[37]

By the early 2010s, many RTI activists whom I met in the course of my research, began to engage with privacy debates and while many FOSS technologists, associated with groups like India-GII, took institutional positions in networks like the Privacy International India.[38] While some of them had built good rapport with prominent privacy NGOs, reflecting mutual awareness and policy impact of transnational activism (Keck and Sikkink 1998), the key driver for their policy activism was far more rooted in the domestic ideational context and in social movements that had become the bulwark against *Hindutva* politics over the decades. This became evident to me in the course an in-depth interview with a leading FOSS technologist, active both in RTI groups as well as communications policy fora, who framed the issue of privacy not just in technical terms but in social and political terms. He even argued that the main problem in India was not just autonomy of individual users, but 'vigilantism and the mentality' against minorities and the way *Hindutva* forces exploit these networks to target their opponents.[39]

Such view and ideas appealed to more and more groups and drew RTI campaigners closer to sections of the political parties opposed to the *Hindutva* movement. Including many within the

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[37] More recently, core public institutions of RTI movement like MKSS and its founders like Aruna Roy have been at the forefront at leading a public campaign against hate and violence against Muslims. See "Former top babus express concern over intolerance, hyper-nationalism", India Today, June 11, 2017

[38] Vikram Crishna was a member of the original team of technologists who started the India GII in the late 1990s. In 2010 he made these comments in Mumbai addressing a seminar on UID and financial privacy. "A workshop on Aadhar/UID with Vickram Crishna" Moneylife Foundation, 17 August 2010. Available here: http://foundation.moneylife.in/th_gallery/moneylife-foundation-conducts-workshop-on-aadhaar/ (accessed September 2016)

[39] Interview with a leading FOSS technologist, and a core member of India-GII group. Conducted in Delhi. January 2015.

Congress party and its nationalist fold, something I could sense in the course of my interaction with journalists, that the Congress leadership became willing to listen to FOSS technologists and RTI activists which framed the question of information technology in telecommunications not as a problem of 'human interference' but in policy terms. Moreover, the parallel debates around UID as well as related concerns regarding UPA's IT policy at large, there were growing signs that party leadership was beginning to reconsider its reliance on IT czars as a way to build policy consensus. Rather than relying on a communicative strategy to frame the problems in terms of India's cultural sovereignty as had been the case in an earlier era, gradually the Congress leaders even came to accept that activists' ideas that automisation of surveillance was prone to 'lawful but malicious use.'[40]

From identity to autonomy: Framing in international communications policy

The growing salience of FOSS technologists and ideas about online surveillance and anonymity align the international dimension in their coordinating discourse of policy. As discussed earlier, international fora such United Nation's International Telecommunications Union served a cultural nationalist status quo in the 1990s and weakened the discourse of privacy at home. This had been the case in the context of satellite technology related policy debates, when India's opposition to a 'free flow of information' consolidated domestic politics around themes of 'foreign' influence rather than reforms required in the Indian Telegraph Act. By the early 2010s however, the international arena also became a source of more ideational contention and contributed to the ongoing change in policy. As a technology reviewer put it,

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[40] "Congress minister who put surveillance system in place warns against its 'lawful but malicious' use", in Scroll.in, 28 May 2015

international arena was no longer beyond the purview of bloggers' reach and called out the historical 'bogey of national security' which had been used in the past.[41]

Moreover, rather than use a paranoia-laced discourse about the internet, the UPA came around to coordinate dialogue with FOSS technologists. The framing change took place in the course of a series of negotiations around the emerging policy domain of international and global Internet governance which saw India's leadership first seek recourse to an evasive approach but gradually move towards a more purposeful view of recognising privacy related concerns. Rather than provide a consensus for the domestic debate on media and communications policy, the international fora allowed activists to further engage with the Left and various political party leadership that had until then remained in the margins of communications policy arena.

This change unfolded primarily in two related fora, firstly in the context of the internet related debates at the UN, and secondly, under the more specific communications policy context that followed public revelations of mass surveillance. The UPA was drawn into the first debate in 2011, when India's representatives to the United Nations (UN) proposed a multilateral Committee on Internet Related Policy (CIRP) to address the various issues in the internet's governance including on the problem of surveillance online. In a reflection the general reluctance of the UPA to take a hard-line view on the subject, the Congress-led government let a first-time BJP MP present India's draft proposal which left the decision to not commit to any policy on mass surveillance and online rights more broadly to individual members states. Instead, it proposed a coordinating institution that would create 'quick footed and timely global solutions and policies, *not divergent* and fragmented national policies.'[42] (emphasis added)

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[41] Popular tech blog Gigaom called the ban on BlackBerry services as "dumb-things-dumb-government-officials-do". Report available here: https://gigaom.com/2008/03/07/blackberry-ban-india/ (accessed March 2015)

[42] Quote from the draft proposal was introduced by a BJP MP D. Singh at the United Nations. See "India's proposal for a United Nations Committee for Internet Related Policies (CIRP) and made public under the Agenda item 16: Information and Communications Technologies for Development at the 66th Session of the UN General Assembly, New York, 26 October 2011

With its insistence on 'national policies', however, this led to renewed active debate at home where FOSS technologists, particularly from Bangalore-based think tanks like the Centre for Internet and Society capitalised upon the fact that there was no mention of the ongoing debates around surveillance in the draft proposal. This came at a time, in early 2010s, when the UPA was dealing with the public backlash in relation to their efforts to rope the private intermediaries. Rather than coordinate its actions with domestic license holders *as well as* FOSS technologists who were already active in the international arena, the CIRP proposal proved to yet another opportunity for the UPA to informally engage with policy problems at home.

In my interviews with participants who engaged in the various 'multi-stakeholder' negotiations that followed the submission by CIRP, I could see the desperation in the ministry officials, as FOSS technologists began to question the motives behind such a move.[43] In Bangalore, digital rights activists told me that CIRP should not become a means to distract from outstanding policy questions relating to internet governance including the problem of surveillance in communications online. Some of them questioned the UPA leadership publicly, asking if the CIRP was meant 'to regulate citizens or industry or government activity or for regulation around IP (intellectual property), competition, data protection, crime or tax, we do not know.'[44] In the long run this proved a valuable strategy for activists developing the coordinating discourse which had historically become marginalised.

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[43] One legal advisor on the subject of telecom privacy told me, 'usually they at least go through the usual consultations and rounds with industry', but not in the case of CIRP. For details see Appendix 2.1

[44] These comments were made at a preliminary meeting held in New Delhi to decide on India's Internet Governance agenda, hosted by the Federation of Indian Chambers of Commerce and Industry (FICCI). For the comments from CIS, see "Govt plans inter-ministerial panel on Internet policy" in <u>Live Mint</u>, 19 September, 2012

The coordinating role of FOSS groups became even more important in 2012 when an UN-led summit on telecommunications policy, to review the existing ITRs, saw a rift emerge between the traditional stakeholders and cellular industry partners and Department of Telecom officials. In the past, particularly in the course of telecommunications liberalisation, corporate cellular phone companies had joined the licensing regime which had neither updated the encryption policy nor institutionalised reforms in its policies around problem of surveillance. Moreover, under the ITU's international laws, each state was in charge of setting their domestic policy framework and this had proved a convenient way for policymakers to avoid thorny problems posed by the rise of online networks and shape the affordances in communications in the past.

At the World Conference on Information Technology (WCIT), held in Dubai in December 2012, this policy framework came apart. In seeking to address the weakness in policy framework, UPA ministry officials began coordinating their efforts with a wider set of policy 'stakeholders' besides DoT officials and cellular industry lobby groups. This again brought in new ideas about privacy into the policy arena. Speaking at a pre-conference summit held at Baku, Azerbaijan, in October 2012, India's Communications minister Kapil Sibal tried to assuage rising tensions by suggesting that the 'Internet perhaps is the nearest approximation to the utopian world of freedom' and extended an open invitation to IT sector interests as well as activists to be part of the multi-stakeholder discussions.[45]

However, as discussed in a previous chapter, in 1989, Indian officials had signed on the ITRs primarily to avoid any debate that would upset the licensing regime or the discretionary powers it accorded to the political elites. Now as WCIT negotiations progressed, the question of

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[45]Kapil Sibal also added that the Internet "can provide the means for sustainable and inclusive development in a country of 1.25 billion people, in areas such as education, healthcare, financial inclusion and service delivery". Speech available at: http://pib.nic.in/newsite/erelease.aspx?relid=88870 (accessed May 2013)

whether India should sign on the new ITRs opened the status quo to new ideas. In particular, it upset the cellular services providers who had thus far supported of telecom licensing bureaucracy as part of the bargain for not allowing VoIP and similar services online.[46] Any shift from this arrangement, lobby groups representing the interests of telecom sector in WCIT argued, could also upset the discourse that publicly insisted on keeping out any 'foreign' influence in India's media system. In particular, some key cellular service providers argued that travellers from India's neighbouring regions, particularly Pakistan, would have to be allowed to use their own services rather than those operated by the cellular firms licensed under the Indian Telegraph Act.[47]

Faced with a potential 'crisis', in a bid to avoid a public showdown, the UPA leadership turned towards alternative ideas which gave effect to a policy shift that was based on a principled support for privacy and citizens' rights online. Given the proximity of UPA's IT czars with not only entrepreneurs in digital media and communications sector in India, but global policy players like Vint Cerf who represented American firms like Google at the ITU summit, had already started to shape the thinking in UPA leadership. However, it was largely through the activism of smaller and even grassroots FOSS groups which provided what Schmidt (2008) has argued to be the necessary 'background capacities' at these fora, that built the strength of the new coordinating discourse of communications policy.

The international arena not only provided FOSS technologists a stake in communications policy but a means to advance their ideas in the domestic context. Also, the emergence of divisions between cellular phone interests and the DoT at the ITU also drew the attention of progressive political groups and Left affiliated NGOs who had always been more interested in

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[46] Based on interviews conducted with Indian participants at WCIT, New Delhi, January 2014-March 2016

[47] Ibid.

questions of political economy. Now with the emergence of surveillance as a cause of contentions in communications policy, CPI (M) affiliated activists began to engage more thoroughly with problems of surveillance in communications policy too. In a defining moment for the new politics, the WCIT negotiations saw India withdraw from the deliberations, with the minister in charge suggesting that the government needed more consultations at home before committing to the new ITRs.

In the domestic arena too, Left parties and its allied movements like FSMI now took a much more progressive stance on the issue of privacy rights online. Unlike the 1970s when many amateur ham operators and officials had endorsed Indira Gandhi's in the name of protecting India's cultural identity from the 'third eye in the sky,' by the early 2010s the framing had changed. Meanwhile, the Left-aligned NGOs like the SKC and their policy advisors adapted to the internet-related rights related discourse, and publicly reaffirmed the value of human rights and privacy in communications policy. The 'lack of democratic engagement', one legal advisor affiliated to SKC argued, 'in most developing countries as well as poor human rights records of many of the countries supporting greater governmental involvement in the Internet sphere.'[48]

This new policy discourse of communications in the 'Internet sphere'was in sharp contrast to the Left's earlier engagement, which as discussed in earlier chapters, had become marginal to the communicative discourse of *Hindutva* and cultural nationalism. As political parties like the CPI (M) and even sections of the Congress began to turn towards FOSS technology related ideas, privacy became a primary means to coordinate their response and challenge surveillance related loopholes in communications policy framework. In turn, FOSS technologists and allied intellectual property law activism now gained a base in politics through their engagement with

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[48] Bailey, Rishabh, "The WCIT's outcomes: an Indian civil society perspective" for *Internet Democracy Project,* New Delhi, 16 January 2013 (accessed in interview with the author)

the Left parties. Eventually a new ideational divide emerged which split parties along a cultural nationalist versus privacy divide, with each revelation of mass surveillance strengthening the coordinating discourse with IT interests in the emerging media system.[49]

Metadata, cultural nationalism and communications policy after Snowden

It was in the backdrop of the growing ideational contentions surrounding India's international policy debates, that existence of mass surveillance of online networks by the American government became public. These came to be known popularly as 'Snowden revelations', named after the whistle-blower who leaked the news about surveillance online. it provoked a counter response not just from the Left but also the Hindu right wing that took it as another opportunity to expand rather than curtail India's own mass surveillance programme. The Snowden revelation made public the existence of the PRISM programme managed by the US National Security Agency (NSA). It provided a detailed picture of the ways in which multinational Internet corporations including Microsoft, Google, Yahoo and Apple had opened secret for security agencies to information and data of users, both within the USA as well as those based in other countries.[50]

I was able to track the debates that followed in India soon after these allegations were published in the Indian Press. I was based in Delhi at the time, and from June 2013, following the publications about the industrial-scale of the cyber-espionage by the US National Security Agency, tracked the UPA's leadership as well as ongoing negotiation in the context of communications policy closely. In their initial reactions, the UPA leadership sought to ignore

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[49] By January 2014, more than six different groups of political and social activists had filed cases against the UIDAI. "Divided right and left, united in objective to scuttle Aadhaar" in The Indian Express, 28 January 2014

[50] 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)

it, and instead bury the revelations as journalistic exaggerations. Its Minister for External Affairs, a seasoned lawyer, argued that the mass surveillance of metadata was 'not scrutiny and access to actual messages.' They even argued that such monitoring of metadata of online networks and communications was 'only computer analysis of patterns' and were 'not actually snooping specifically on content of anybody's message or conversation.'[51]

In more personal interactions however, including in the course of my fieldwork, I met new media activists and FOSS technologists who advised the UPA to take a different view, while the Hindu nationalists also joined the debates from the other end and took a stance opposed the discourse of privacy that had become evident in the domestic and international arena. Among other aspects, Snowden revelations disclosed that several large American telecommunication and social networking firms were supporting the mass surveillance programmes, a claim that served to further polarised the debate around telecommunications policy. In addition, they revealed that the BJP, India's leading Hindu nationalist party, was one of the five most closely monitored political groups under the covert surveillance programmes of the NSA.[52]

At the time, Facebook had emerged as the largest online social networking site in India which had already gathered over 200 million users. In addition, instant messaging and VoIP services by Google and other firms were also becoming a popular substitute for cellular mobile phones. Meanwhile, as Parthasarthi and Amanullah (2013) have shown, surveillance and censorship in India's border regions became a routine aspect in telecom licensing, which further aggravated concerns regarding privacy of India's citizens data. It was precisely under these circumstances, in addition to the broader debate around new media policy, which saw the UPA government

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[51] "It's not actually snooping: Khursheed on US Surveillance" in The Hindu, 4 July 2013

[52] 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)

briefly reviving a convergence related legislation which it saw as a means to address these problems in India's media and communications policy.[53]

However, instead of convergence, it was the Snowden revelations with their spectacular revelations about mass surveillance with an iconic whistle-blower, that drove much of the policy debate about privacy online. In particular, both the FOSS technologists and *Hindutva* parties took little interest in limiting the debate to legal context, and called for the protection of citizens from mass surveillance. Instead of seeking a broader policy debate, ideologues and IT Cell associated with the *Hindutva* movement even called for more surveillance and international partnership with security agencies responsible. Given the context in which the Snowden leaks had emerged, at a time when the domestic arena was already witnessing explosion in online data services, the *Hindutva* focus was on retaining discretionary powers for the state rather than expand the debate to include social concerns such as privacy of citizens online.

Framing the problem in cultural nationalism terms, the BJP leadership also rehearsed the older communicative discourse to demand that telecommunications policy should be addressed through more 'data localisation'. Such trends were observed worldwide in the post-Snowden era (Hill 2014), but in India, it was revived within the ideational context of *Hindutva* with the BJP becoming a vocal advocate of such policy measures. Its leaders raised demands for localisation without discussing the problem of surveillance and reflected the old colonial era practice of covering the discretionary powers which could potentially be misused against vulnerable groups and cultural minorities online. Calling it a battle for India's 'data and

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[53] "Government working on a new convergence Bill", The Economic Times, May 26, 2013

information sovereignty' the *Hindutva* affiliated IT Cell activists called for 'Indian data to stay in India, in Indian data centres.'[54]

Instead of debating the need for constitutional or even policy reform, as the Congress leadership at the time had initiated through the various 'multi-stakeholder' deliberations, the IT Cell framed the problem of technological change in their own ideological terms. In the run up to the 2014 elections, BJP IT Cell's leadership explained this in terms of India's 'data sovereignty' which he defined as 'a concept that information which has been converted and stored in binary digital form is subject to the laws of the country in which it is located.'[55] By focussing on the territorial aspects the Hindutva strategy, as I could observe through my interactions with many journalists covering the party as it rose to power in May 2014, was move the debate away from the focus on citizens' rights and instead focus on cultural nationalism. It was precisely through such a discourse of 'free speech' that the *Hindutva* movement also defended its mass propaganda online that often involved targeting the opposition and cultural minorities through the use of Twitter and related 'trolling' online (Chaturvedi 2016, Udupa 2017.)

All this is part of the context of communications policy in India today, the public invocations free speech by *Hindutva* does not involve any reference to the alternative worldviews of FOSS and any reference to the rights of the citizens. Instead, Hindu nationalists want to work ever more closely with large private firms, who were wooed actively in the course of the 2014 election campaign under the pretext of the BJP's Digital India flagship programme. Instead of addressing the problem of surveillance and weakness in existing communications policy framework and adding policy and legal oversight as RTI campaigners and FOSS technologists

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[54] The detailed explanation was provided on Vinit Goenka's Blog, "IT Sovereignty in India – The Data Centre Dimension", 11 April 2014 Available: https://vinitgoenka.wordpress.com/2014/04/11/it-sovereignty-in-india-the-data-centre-dimension/ (accessed September 2016)

[55] Ibid

advocated, the IT Cell leadership promised that if elected to power, in 2014, the *Hindutva* party would 'lure' large online social networking firms to comply with Indian laws that would ensure that data of Indian consumers within India's territorial control.[56]

This last dimension, concerning the politics of online data security had implications not just for communications policy but media system in light of ongoing digital convergence. *Hindutva* ideas were in contrast to the FOSS related activism around a 'commons' approach, advocated by groups like the Society for Knowledge Commons and SFLC, and the ideational polarisation became ever more pronounced after the Snowden revelations. In contrast to data localisation, FOSS technologists advanced non-copyright-based solutions like the use of products like Privacy Guard, groups like the Center for Internet and Society (CIS) advocated a return to 'community-based infrastructure' as a more effective response and as the most effective way for journalists and social activists to 'stay anonymous.'[57] Rather than embrace a pro-business approach adopted by the BJP, or framing the question of metadata and mass surveillance in terms of territorial control, FOSS technologists and allied social policy activists endorsed a more privacy-oriented discourse in their advocacy.

Communications policy and a new politics of privacy online

These emerging online data related dimensions provided further consolidation of the new politics of communications policy with surveillance emerging as key issue in communications policy alongside fuelling wider debate on constitutional reforms around privacy for Indian citizens in general. From a discursive institutional perspective, the internet-related technology activism by groups like CKS and CIS provided an alternative 'coordinating discourse' that

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[56] Ibid.

[57] 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

could resist the reliance of cultural nationalism as had been the case in the past. In contrast to the *Hindutva* reliance on mass propaganda and growing acts of active endorsement of vigilantism (Banaji 2018), privacy activists groups kept the focus on legal and policy dimensions, and expanded their discourse to include themes of social justice and minority rights.

In the post-Snowden era, the policy challenge to Hindu nationalism did not only emerge from its political context in the Parliament but also through a discourse of communications policy included progressive social movements and RTI groups that also strengthened the coordination with technologists. Moreover, with the involvement of RTI movement leadership including Aruna Roy, the progressive discourse of communications policy also gained more support in the international policy domain. In their campaign these RTI activists for instance argued for more safeguards and called privacy to be made part of wider discourse of 'open governance' as they collaborated with a host of international technology related groups. In 2013, in a public debate Roy even confronted the American leadership of the Unites States which was forced to admit that their security interests had a negative impact and that things had 'gone too far.'[58]

Rather than digital capitalism alone, it was such ideological divides including on the question of mass surveillance that sustained India's communications policy including in the international arena where questions of technical standards and misuse discretionary powers were debated vigorously at international meetings like Net Mundial in Brazil, 2014.[59] At the discursive institutional level, the new politics of online communications marked a policy shift

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[58] Aruna Roy joined the European civil society coalition "Access Info Europe" to question American Secretary of State on the Snowden revelations. She raised the points at an "open government" meeting of various countries. "Access Info Europe endorses International Principles on Surveillance", Access Info Europe, November, 2013. See https://www.access-info.org/a4r/12489 (accessed September 2016)

[59] For details regarding my interactions with FOSS technologists and NETMundial related events that I attended, see Appendix 2.2

away from concerns for cultural nationalism towards greater recognition of the need for online privacy. This point was often reiterated in the public debate by RTI activists and many social sector activists. As an activist also involved in the debate about UID and privacy reform put it, 'we are not against technology, but against technocracy' reiterating the primacy of politics which was often missing in the previous era.[60]

In assessing the extent to which the new Left politics found its footing in media and communications policy, we can consider the scenario since the election of the BJP-led National Democratic Alliance (NDA) government in 2014 and the way their efforts to reverse the change have been thwarted. In 2015, a year after as it returned to power, rather than revive a wider debate on the need to address the issue of digital convergence or address the weakness in the constitutional context of privacy, the NDA government not only continued with the UID and CMS projects, but also tried to revive the older consensus through a new National Encryption Policy. Rather than push these policies through formal legislative review, in a move that was reminiscent of the right-wing politics of the IT Act, it introduced a draft policy without ensuring adequate public debate.

And just as in the context of the IT Act, the new policy immediately became the basis for further ideational contentions with the effect that a political executive with an unprecedented majority backing it in the Parliament did not even try to defend it let alone pursue it further. Issued by the Ministry of Communications and IT, the draft of new encryption policy required Indian citizens 'to store the plaintexts of the corresponding encrypted information for 90 days from the date of transaction and provide the verifiable Plain Text to Law and Enforcement Agencies as and when required as per the provision of the laws of the country.' Without

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[60] This point was made again and again in the course of my interviews, particularly in Delhi where many social activists and RTI movement who were engaged in writing and speaking about the problem of mass surveillance in the post-Snowden era.

addressing concerns regarding surveillance online, the policy also stated that all 'service providers which provide encryption in India will have to register with the government.'[61]

These elements show a thread of historical continuity where amateur technological experimentation is seen as subversive and thus requiring official licensing. However, unlike the pre-internet era when a weak discourse of policy was often overwhelmed by ideas of cultural nationalism, this time around the presence of the alternative ideas and an alliance calling for privacy reforms not only divided IT interest groups but also led to a broader debate on the rights of the citizens online. In a span of a few hours of the release of the draft policy, scores of journalists, and media bloggers joined FOSS and privacy rights groups to question the surveillance-related loopholes in the proposals. Even many journalists aligned with Digital India platform also raised concerns regarding 'hackers or by a government official with encryption keys who can manipulate stored data.'[62]

No longer able to frame the issue in cultural nationalist terms, the BJP-led government now had to face tougher scrutiny on more fundamental policy issue of privacy and citizens' rights online. The 'government was trying to implement the 'Gujarat Snooping Model' at the national level through the policy,'[63] argued one CPI (M) MP in the Parliament while the Congress called for a fresh debate on surveillance in communications policy. What also made a difference was also the change in the public discourse beyond the Parliament, where the ideas first advanced by a small group of FOSS technologists were now endorsed by a cross-section of the press,

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[61] The draft National Encryption Policy, 2015 (withdrawn from the official site; a copy available here http://www.medianama.com/2015/09/223-india-draft-encryption-policy/ (accessed September 2016)

[62] The encryption policy became the subject of a series of critical reviews which were shared widely on India's Blogosphere, and taken up by activists' networks like Save the Internet. "Govt. exempts WhatsApp, social media from Encryption Policy" in India Today, 22 September 2015

[63] "Draft encryption policy slammed by opposition parties" in The Economic Times, 22 September 2015

including the many independent online news websites that consistently kept their focus on law and policy in their coverage.[64]

Confronted by a deeply polarised journalism community and growing division within the ranks of cellular mobile providers as well as digital media sector intermediaries, the BJP-led government was forced to backtrack and address diverse viewpoints in the policy debate. Responding to the 'public backlash,' the Minister for Communications acknowledged the role of 'the enlightened sections of the public' as a reason for reconsidering a major policy decision.[65] In withdrawing the policy draft, the NDA minister Prasad however did not backtrack from his party's ideological stance, and attributed the problem to errors in the drafting of the policy, again indicating that efforts to bring online encryption in line with their ideas will continue in the future.[66]

It was this ideational conflict that India's communications policy shall now develop and not around a consensus as had been the case in the past. Even as regulatory bodies like the Telecom Regulatory Authority of India mediated successfully on access related questions of network neutrality, [67] in the context of surveillance and the question of encryption, policies have been driven by political and ideational conflict. Ideas and not interests drive change while polarising the public arena. On the one hand licensed cellular firms defended the national encryption policy, arguing that online services could be misused, while on the other hand many online

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[64] Several news websites like Scroll.in, The Wire, Huffington Post India and several online forums now routinely report on 'Technology and Law' beat, and some have a specific privacy related desk which covers stories on a daily basis. Based on interviews conducted in Delhi and Bangalore. January 2014-May 2016.

[65] "Backlash forces hasty retreat on draft encryption policy", in India Today, 22 September 2015

[66] "Modi Government Withdraws Draft Encryption Policy: IT Minister" in The Huffington Post, 22 September 2016

[67] Save the Internet coalition represented some of the civil society activists opposing the private telecommunications firms which classified online networking as "over the top" of their basic voice services. For details see http://www.savetheinternet.in/ (accessed September 2016)

communications firms, backed FOSS technologists in their demands for legal and constitutional reforms. In contrast to cellular network services lobby group, the digital media sector interests like those associated with the Internet and Mobile Association of India (IAMAI) argued that the 'interest of users should be foremost in framing encryption policy.'[68]

More crucially, social and RTI activists joined the debate beyond the formal policy domain, and provided an institutional basis for progressive reforms. On the question of 'right to privacy' as a constitutional right for Indian citizens, many RTI groups were central to the litigation in the Supreme Court where they squared off against Hindu nationalist-led NDA government which argued against any reform.[69] On their part, the *Hindutva* leadership pushed on with their approach to 'lure' social networking and online communications firms, with the Prime Minister relied on new media platforms to reach out to 'Facebookers, Tweeple and Instagrammers,' all the while pushing against policy reforms both within the Parliament and in the courts.[70]

In the context of the wider privacy related debates too, the Left parties now back the RTI activists and FOSS technologists about the need for constitutional safeguards for citizens' privacy. As the privacy case was heard in the Supreme Court, the alliance also drew support if not participation from the Congress, generally reluctant to make an ideational commitment on the issue. Its leaders called the Supreme Court's verdict in the privacy case a defeat for 'fascist forces' and their ideology of 'suppression though surveillance.'[71] The beyond the legislature

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[68] IAMAI held several rounds of consultations with the government in the course of the deliberations both on media regulation policy and on the question of encryption laws. "Interest of users should be foremost in framing encryption policy: IAMAI" in The Economic Times, 10 May 2016

[69] Right to Privacy Multifaceted, So Can't Be Fundamental, Centre Tells SC", The Wire, 27 July, 2017

[70] "We need a 'fine balance' between internet privacy and national security needs, says Narendra Modi", Scroll.in, Nov 13 2017

[71] In welcoming the SC verdict against the NDA government, Congress leadership argued that privacy rights had 'the freedom that was won in 1947 has been enriched and enlarged.
"Congress says SC privacy verdict blow to "fascist forces"", in The Economic Times, August 27, 2017

further strengthen the discourse of privacy in communications policy debates too and this ideational divide shall determine the nature and substance of the change in the future as well.

Conclusion

The politics of communications surveillance that emerged in the mid-2010s had been in the making for over two decades since online networks emerged in the mid-1990s. As this chapter has discussed, the historical context for the public contentions went even deeper in history, from the time when communications policy became dominated by cultural nationalist themes. The real shift however was based on public activism, which the BJP leadership mockingly called the 'enlightened sections of the public'. It did not fail to notice that this enlightenment had united around a technology which has inflected communications policy towards greater recognition of citizens' right to communication. The chapter maps the origins and evolution of this 'enlightened public', and traces its links to the early FOSS related activism around licensing of online communications in the late 1990s.

Over the years, a new discourse has framed policies in terms of an ideal of citizens' privacy. This discourse had first emerged through the activism of a core group of FOSS technologists, bloggers as well as communications policy experts who gradually came together around themes of citizens' rights online and institutionalised it through their engagement with themes in political economy and politics of communications policy. Gradually they came to be supported by progressive groups like the RTI movement as well as Left parties in the Parliament. Their ideas also divided IT related interests in telecommunications sector, both in the domestic as well as at the international policy fora. Policy change occurred on the way and upended the consensus that had taken hold in the pre-internet era.

Chapter 8

Conclusion

This thesis analyses the politics of media and communications policy in India, and explores how it intersects with the rise of the internet. The analysis reveals that technologists and new media activists have been central to the change that has occurred in media policy with their ideas and activism serving as effective glue in mobilising political groups and IT sector interests which have backed a progressive turn in media and communications policy agenda. At the core of their ideas is a conception of technology being a social phenomenon, something that needs to be considered central to communication rights of the citizens. However, the new politics of policy has not entirely overturned the older policy framework that prioritised, and was in turn bolstered by, the politics of cultural nationalism.

In this chapter, I will revisit the key arguments of the thesis and discuss how the analysis helps us in contributing to the theoretical and conceptual literature in comparative studies of media policy, particularly in the context of technological changes brought about by the internet. I also highlight areas for future research and elaborate on the implications of India's case study for media policy analysis both at the global level as well as in the related emerging policy domain of internet and its international governance. I will end with some concluding remarks regarding the potential of internet related activism in shaping a more democratic media and communications system.

Besides underscoring the progressive change, the thesis also shows that there are continuities in media and communications policy which have persisted in spite of the internet, or perhaps even because of it. The main conclusion is that technological change has remained a site for the expansion of alternative ideas which can resist dominant *Hindutva* cultural nationalist

ideology but cannot completely overturn it. Drawing from the findings of the thesis, I will also discuss that there is more complexity to the problems in media and communications policy than highlighted here, but the question of technology change in central to any understanding. I show how these findings have implications for both the theory and practice of the internet related activism, where the problem posed by the rise of ultra-nationalism has neither been taken up as yet.

In particular, I argue that it is time to recognise that the Hindu nationalist ideology has the potential to end the progressive turn towards a rights-based and democratic media policy agenda not just within India but in international communication policy too. This also means ensuring that the emerging politics of intellectual property rights are not overlooked either in theories of global media policy or in the discourse of the internet related communication rights dicourse. On the other side, I will draw attention to the technological orientation of the current wave of FOSS technology related activism to discuss how their claims must become even more inclusive, and more responsive, to wider social change. This, I conclude, is crucial if the internet is to address the growing need to strengthen cultural citizenship in India and live up to its potential to revive the ideals of deliberative democracy.

Internet and India's media policy: Change and continuity

The thesis has shown that technology can play an enabling role in progressive technological activism while, at the same time, a site for political contestations. It has also shown that the outcomes are not as revolutionary as some of the Liberation Technology theories propose; rather they depend on the institutional and ideational factors including long-term historical path dependencies as well as the emergence of public action in the context media policy. Moreover, a historically informed approach shows that rise of ideational contentions not only provides

new opportunities but also raises brings forward more challenges ranging from the problem of politicisation of online hate speech and ever more stealthy forms of data surveillance.

As activists from India's FOSS technology movement, and those allied with the RTI campaigns often argue, the problem is not with technology, but technocratic governance. If, in the 1990s, FOSS technologists and civil rights activists took advantage of the inability of the political parties, particularly the Congress to keep up with IT's role in media and communications, two decades later they will find the going far more difficult given the fact that Hindu nationalists have again regrouped around themes of culture and sovereignty. The claim that 'Indian data within Indian borders' provides a renewed impetus to cultural nationalist impulse and could overwhelm the gains made so far.

The growing internationalisation of Indian involvement in global media policy debates has so far not fully understood, and the thesis opens a window to further explore the role of India's domestic factors in shaping its international media activism. This means moving beyond its state level policy engagement, where India already gets recognition as one of the major 'internet powers' (Drezner 2004). But so far, the debates around communication rights in India haven't been studied, and it is important to ensure that FOSS technologists are not sidelined within the geopolitical negotiations that can conflate strategic ideals with policy. Hence, it is imperative, in light of the findings from this thesis, that there be greater recognition of the complexity and polarised nature of India's domestic policy.

This should begin by reconsidering the concept of 'civil society' which is supposed to represent the values and norms of non-state actors in media and communications policy. Over the years, India's case has remained on the margins of GMP related theories (Mansell and Raboy 2012, Hamelink 2014), as well in the practice of norm making through campaigns such as the

Communications Rights in Information Society (CRIS). My effort in this thesis has been to (re)historicise current Internet-era debates and clarify misconceptions about the nature of India's domestic civil society. If GMP scholarship is to include India as an important case in the context of internet's governance, then they must reconsider the complexity of its media and communications policy history.

As discussed in the literature review, quite often communication rights campaigns have focused primarily on the European context and draw their lineage to the historical realities around the Right to Communicate which had dominated European and Canadian public debates in the course of the technological changes in the 1960s. As this thesis has demonstrated, such a conception of communications rights politics needs to be problematized and historicised if it has to become truly global in its outlook. Moreover, the breathless optimism about the role of 'civil society' could end up regurgitating the 'governance without politics' Chakravartty (2007), which has been argued to be a consistent problem both in the theories of international communications as well as practical efforts to make world communications more democratic.

If the international arena is to become more responsive, we must first begin with redrawing the conceptual and historical contours of the communications rights as it really existed in countries like India. In this context, its not only India's perspective that matters, but also many other weaker countries like Brazil which are perhaps even more valuable than European experience. So far the case of Brazil, which passed a landmark policy on internet related media and communications laws called 'Marco Civil' in 2014, has received both academic and policy attention (with the law being hailed as the digital era's Bill of Rights), but the debates in India has not received adequate attention. As mentioned earlier, in the thesis, India seems to be put into the grey zone between authoritarian regimes and the more liberal Western media systems

which hasn't yet been fully developed even in the media systems literature (Hallin and Mancini 2011.)

Chakravartty and Roy (2013) have sought to disaggregate the 'Indian model' to indetify regional perspectives that highlight the diversity within the country. Yet, there has been little interest in terms of engaging with the more troubling rise of Hindu nationalism as a pan-Indian phenomenon which affects a large cross-section of media users and citizens across the country, particularly in north-India's 'Hindi belt.' This movement is hardly even mentioned in the literature on GMP while only tangentially referred in the media system theories. As this thesis argues, India has had a long tryst with the politics of self-regulation and freedom of the press more broadly and the internet era debate marks an important moment in the ever changing discourse of policy.

In Chapter 4 and 5 of the thesis, I discussed how ideologcal framing of policy in terms of cultural nationalism and outright chauvinism was central to the way in which one of the world's largest print and mass media systems evolved over the decades. If at the time of independence India'secular nationalist political leadership chose not to adequately debate the subject of citizens rights or the contours of self-regulation while dealind with problems of communal and hate speech, it set in a pattern which later gave way to more aggressive forms of *Hindutva* based framework. Rather than secular concers, their 'communicative discourse' (Schmidt 2008) combined technological changes brought about by the rise of satellite networks to build a consensus around restrictive policies that supress the press and its role in India's democracy.

The focus on discursive histories of media policy have even more central implications for theories of global media policy and internet governance which have emerged as discursive domains of interest to theories of policy as well as practice of building norms and legal reforms.

As discussed in the chapter on communications policy, over the decades successive governments in India, as in many other countries, used debates around international regulations (ITRs) for reinforcing their domestic consensus. However, more recently, the ongoing shift in policy and ideational polarisation within the political arena has opened new opportunities for reforming media policy. In particular, the question of social and economic justice, particularly around the issue of intellectual property and citizens' rights could bridge the discourse and practice of global media policy.

Beyond cultural nationalism: From technology to social justice

Following the revelations of mass surveillance by the American state agencies, global governance scholar and prolific US-based activist Milton Mueller has publicly argued along these lines and called for the creation of a new 'cyber-nation'. Speaking on the theme of the futility of 'multi-stakeholderism', in 2014, Mueller characterised such efforts as a waste and argued that a cyber-nationalism would bring new energy to reforms, which 'comes from the feeling that we are building some new kind of political community, maybe even pioneering revolutionary new forms of governance.'[1] Such perspectives ignore that nation states remain the pivot in organisation like the International Telegraph Union and the history of contestations such fora have engendered around questions of citizens' rights. Not in the least because a turn towards nationalism could work in favour of more exclusionary ideas which can lead to reversals in policy too.

This thesis shows how hard it is to overturn such missteps in history. For instance, as the discussion in previous chapters (6 and 7) we see the historical legacy of press surveillance and censorship and how it continues to impact new politics today. A deeper recognition of India's

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[1] Milton Mueller was speaking at the closing ceremony of the ninth Annual Internet Governance Forum, 4th September 2014, Turkey. He was officially there as a representative of the Internet Governance Project. For the text of Mueller's speech, see http://www.internetgovernance.org/2014/09/05/internet-nation/ (accessed May 2015)

progressive history of communications rights in India could also enable a richer understanding and politics of communications policy today and add more nuance to the scholarship on the ideal internet governance. Moving beyond conceptions of 'cyber-nationalism' however will not be so simple, given that countries like the US and their policymakers constantly seek to expand their framework of 'corporate libertarianism' (Pickard 2010) worldwide and seek to utilise it for their own strategic interests and agenda.

There is however, certainly more scope to do further research along these lines, particularly in relating the interactions between multiple levels of policymaking (De Mesquita 1998) and comparing media policy across countries and the implications for communication rights in the internet era. This thesis also shows that an progressive alliance has emerged in India which has revised a historical feature which was lost in the communicative discourse of mass media policy. The framing of internet realted new media policy in terms of citizens' rights and privacy has also drawn in social activists and RTI campaigners.

The challenge for FOSS technologists and internet evangelists, and for theories of the role of the internet and global media policy too, is to be able to understand the limits of their activism and think how they can contribute to enabling democratisation of media. In the context of the Right to Information in India (RTI), Thomas (2011: 109) has argued, 'unlike the West and other parts of the world where the RTI is tied to freedom of expression and press freedom, the struggle in India has tied this right to the basic right to life and survival…marking a distinct and in fact radical departure from other struggles around information rights.' This is the argument that should extend to the media and communications policy, which I would argue, is already happening in India's case.

The impetus to expand technology related media activism into a social policy agenda lies crucially as much with technology groups as with the users of these technologies. Rather than abandon their focus on constitutional and legal reform, the challenge for FOSS technologists and new media activists would be to translate their ideas in a more socially relevant context. Thomas (2011: 53) calls it communication rights with an 'Indian tenor' and as this thesis shows, analytically comparing it with the scenario until the 1990s, is to think how new media and communications policy are contributing to such a change. Instead of assuming that the internet-related media and policy debates may not appeal to subaltern groups, FOSS technologists, media scholars as well as social activists have done so and will have to do it in the future, and relate their ideas about the internet to reframe policies addressing the needs of the most marginalised groups rather than limiting them to the concerns of urban middle-class technology savvy users of new media and online social networking.

Once again, it's my hope that the historical context mapped in great detail in this thesis opens pathways for such engagement. As mentioned in the early chapters, long before the internet-related activism gained salience, political activists and professional news editors, such as those who founded the All Indian News Editors' Conference had campaigned for the complete emancipation of the press not just from the state as well as private interests. These professional groups represented a discourse that linked the rights of the press to questions of India's democracy. But over the years, their ideas got marginalised within the mass media politics that dominated the legislative eventually took hold of the policy agenda.

In particular, this thesis focusses on the technological change that came in wake of wireless and later the satellite networking revolution. At the time of India's independence, amateur users and 'ham' radio signalling had become quite popular, but again these were actively suppressed in the name of safeguarding India's national culture rather encouraged as communications right

of every citizen. By mapping these historical antecedents, it is possible to see how the ideas about 'freedom of information' has a long history in India's media policy even if they failed to gain predominance for sometime. It also puts in focus the role of politics and conventional discourse which focussed on *massification* of media rather than engage more deeply with changes in technology. The resulting abuse of this weakness in policy discourse, especially since the Emergency and then under by Hindu nationalists, is also discussed in detail in this thesis.

However, it argues that since the emergence of the internet new ideational contentions have emerged, which has again opened avenues to revive the historical traditions and perhaps even institutions like the All-India bodies which had little interest in questions of cultural nationalism. If a similar All-India progressive tradition is to be revived again, it will be important to revisit the media and communication rights politics in contemporary India and place the problem of self-regulation within a political and discursive canvas that isn't restricted to themes of print or digital capitalism. However, as indicated at various point in this thesis, the commitment of many activists and FOSS technologists seems to be limited to questions of technology, and their emphasis on technology inflected ideas like anonymity and free software reflects a lack of interest in the broader politics of mass media and other forms of communication.

As a founding member of the influential India-GII list told me in an interview, 'geek politics is often existential ... we only act when the threat to the internet seems like a question of its survival, otherwise we would let it pass.'[2] This could become a problem when we consider the role of media and communications policy in a democratic context. As highlighted earlier, the

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[2] Interview with a founding member of India-GII, January 2014, New Delhi. For details see Appendix 2.1

internet in India is still growing rapidly, its applications changing and gradually converging with the media system. If FOSS technologists have to be able to play a progressive role they too will have to converge around themes that run continuously in any democracy, and join the institutions of the press. Their discourse and ideas have already become an institution relevant to policy change, how far these ideas enable integration with public institutions around other domains of public policy is another crucial question that needs to be researched further.

Media policy 'from below': Envisioning a roadmap for digital citizenship

Perhaps through more praxis-based research, we can also consider how technological change heralded by the rise of the internet could enable stronger discourse of rights at the more quotidian level. In this thesis we have primarily focussed on the politics of media and communications policy in the context of nationalism and media system as a whole. It has highlighted the centrality of ideas and underlined the ways in which technological change mediates the process, but similar analysis in terms of discursive institutions can also be done in other domains of communication. We can explore the impact on the media and communications at community media level for instance. One of the themes that could help scholars and advocates of user rights engage more meaningfully with the questions discussed in this thesis is the idea of media citizenship in an everyday context (Konig 2016).

For instance, since the 1980s, community media campaigners had proposed an autonomous regulatory framework that would not require heavy-handed licensing and instead rely on the citizens' direct participation and continuous engagement in defining the use of technological interventions. Over the years, radio has remained an important such experiments which are aimed at enabling people to communicate better in their quotidian battles for survival and livelihood in rural India. As one of India's leading community news media activist and founder of the CGNet Swara project in Chattisgarh, Shubhranshu Choudhury puts it, community radio

ensures that 'everybody, all of us, have a say in deciding what issues are going to be discussed, not just a few wealthy media proprietors and their chosen editors.'[3]

In my research, I came across some interesting instance when FOSS groups and related social movements like the Free Software Movement of India (FSMI) in Kerala have made common cause community radio activists too. But there is certainly scope to do more research, particularly in relating the quotidian debates around rights online with perhaps community and even national level policies being formulated to enhance the use of IT in public and cultural communication. This can also help in developing pathways for the urban and often upper-class activists in cities like Delhi and Bangalore's IT districts to move their focus beyond technology-enabled frames of anonymity and think more critically about rights *per se* and take more interest in the political rather than just civic oriented discourse rights.

The most conventional criticism of the ICT-related activism in India is that such efforts are largely uncoordinated with the power hierarchies that persist in the Indian society. Sreekumar (2005: 172) has argued that 'cyber-libertarian' interventions often ignore the 'complex social ensemble of Indian villages', which leads to frequent failures and a persistent struggle between the state and civil society organisations. Arguing that such interventions reflect a 'development orthodoxy', critics argue that the primary reason for failure is not the technology but the fact that the discourse of technology is not inclusive of the realities on the ground, particularly in the rural countryside.

It is evident from the analysis in this thesis that online rights activists have built alliances with grassroots networks in India including activists from the Right to Information campaigns and

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[3] Chatterjee, S. "A rural community news portal that is telling stories from India's interiors", The News Minute, 12 October 2015

those advocating privacy reforms against the use of biometric-based technology in the UID (Unique Identity) scheme. It is thus possible to further bridge the gap in our understanding beyond the national policy level, and ground realities in various other domains of public policy by studying and comparing how social activism and movements are adapting to technological change 'from below.' As I have already discussed, the media policy related rights activism has its roots in the alternative conceptions of IT and we need to extend the analysis to better understand that amateur activism can play in other domains of social policy.

However, it is perhaps inevitable, as this thesis also shows, that with time and expansion of the internet and online applications in media and communications, that social groups have been drawn into these debates. The extent to which their internet policy activism related to wider social activism is also worth exploring in more detail, something that is only alluded to in this thesis but not fully developed. It is not yet less clear how far their activism and engagement with the Left parties is sustainable in the long run either. Exploring these questions further, particularly in the framework of 'cultural citizenship' (Konig 2016) could certainly bridge the empirical gap in terms of their understanding just how far is such technology activism could become more inclusive of questions of economic inequality and social justice.

At a basic level, this could also help us understand the potential of the internet to serve in public policy and removing barriers that exist in terms of building new modes of citizenship. The community media and informatics campaigners from earlier era were largely focussed on India's rural and agrarian crisis (for instance the SITE project in the 1970s) but were unable to overcome the challenge of cultural and Hindu nationalism. The activism around new media have been able to resist *Hindutva* ideology but have relied on more elite activism focussed largely on communities and activists. There is certainly scope for reconcile and research this rupture and explore how progressive activism could use technological change both as a means

to reach new publics as well as a means to restrain those seeking to polarise the politics of media policy on the basis of cultural nationalism.

Morevoer, on the other side, the question is how far would the Left-oriented political groups embrace new media and the internet and adopt complex ideas about anonymity as a central issue in their own political agenda. *Hindutva* nationalists on the other hand will seek to polarise the debate about technology further. Whether India's vibrant media policy domain provides a means to engage with social movements or enables a more aggressive forms of political assertions remains to be seen. But the outcome will certainly depend on the bargains and compromise that FOSS activists make in interpreting technological change not simply in legal terms but within a broader political framework of culture and citizenship as well.

The Internet and future of India's democracy

As a final word, it is important to again underscore that this thesis explains some change in policy but doesn't claim to have addressed the full range of factors that go into shaping media policy. When major political parties in India decide to join campaigns for communication rights in their campaigns, there are many factors that shape their decisions in that moment. However, what this thesis shows is that ideas can have a long-term impact in gradually changing mind-sets and how institutions perceive certain problems as relevant to policy. However, much of the support still seems to come on a case-by-case basis and sometimes it is not clear the extent to which an ideational divide from Hindu nationalism is the driving factor.

Similarly, the alternative law activists and FOSS technologists still seem to avoid formal political endorsements, and by 2016, only one 'pirate party' exists in in the state of Kerala as yet. However, this thesis has shown that even in the absence of formal institutions, discourse of self-regulation and privacy can bring together groups with a shared framing of a policy

problem. Technology can often be the source of such alliance and also a means to advance it, but in the end, it also depends on broader political context and contingencies that allow activists and discourse to frame a crisis under rapidly changing circumstances. In my thesis, I have shown that as of now the new politics of media and communications policy has allowed for change to occur, but continuities are also evident.

In order to expand the social base, each side in will try to go beyond the question of technology and win the trust of citizens from across various social contexts, including perhaps in the domain of cultural production. In fact, it would not be wrong to say that the issues such as intellectual property and copyright could become a key pivot for public activism between technologists and their allies in the field of media policy. The challenge is thus two-fold; FOSS technologists will have to deepen their social engagement and move beyond existential models of technology-based activism. In turn, political campaigners will need to find metaphors and adapt their ideology to the alternative visions of citizens' rights that include a stronger strain of intellectual property and themes associated with the internet related technological changes in India's culture and society.

Currently, such engagement has been limited though quite fruitful, as this thesis has shown in post-Snowden revelations activism by RTI activists against mass surveillance. As innovations using online technologies expand to encompass more and more domains of India's media, economy and society at large, these changes would create new opportunities as well as challenges for policy reforms. In the process, the question of the governance of these networks will continue to draw more and more political interest from the *Hindutva* forces too, which shall undoubtedly make questions of digital media politics more contentious in a not-so-distant future.

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Appendices

Appendix 1

Documentary and archival material

Here I provide a lists key documentary and archival material used in the thesis. These documents include individual collections and set of papers accessed at various points discussed in Chapter 3.

1.1 Documents relating to colonial era laws and their institutional legacy:

- Annual report of the Registrar of Newspapers for India. India. New Delhi: Ministry of Information and Broadcasting, 1956-1964. New Delhi. Available at the British Library Asia Pacific & Africa SV 651

- Reports of the Ministry of Information and Broadcasting Ministry of Information and Broadcasting. Available at the British Library Asia Pacific & Africa 0536-9576

- Annual reports published by the DoP&T, concerning administrative reforms in the management of telegraph networks. Including Telegraph Committee, Calcutta: Office of the Superintendent of Govt. Print., India, 1906-07 (available at the British Library, V 16282, Report of the Enquiry Committee, etc. / INDIA [Republic of India]

- Report of the First Press Commission of India, British Library, I.S.408/8

- Report of the Second Press Commission, available in "Committee and Commissions in India – 1980" SP Aggarwal ed., "Volume 18, Part A", Concept Publishing Company, New Delhi

1.2 Documents relating to legislative debates and policy deliberations:

- Archives of the Economic and Political Weekly (EPW): Covers the period both before and after the constitutional assembly debates, with a focus on Congress, Congress Socialist, Left as well as the cultural nationalist activism within the beyond the assembly.

- Report of the Press Commission, History of Indian Journalism, British Library, I.S.408/8

- Report of the Second Press Commission, available in "Committee and Commissions in India – 1980" SP Aggarwal ed., "Volume 18, Part A", Concept Publishing Company, New Delhi

- Reports published by the Telecom Regulatory Authority of India (TRAI), including Consultation Paper on "National Broadband Policy" Telecommunications Regulatory Authority of India, 2004

- Cable Television Networks (Regulation) Act, 1995 and Cable Television Network Rules, 1994

- Human Development Report (2010-2011) "Sustainability and Equity: A Better Future for All." Published for the United Nations Development Programme. Internet data from Internet World Stats.

- Communications Convergence Bill, 2001, draft from the Department of Telecommunications, Ministry of Communications and Information Technology (IT), Government of India.

- Report of the Expert Committee, Proposed Amendments to IT Act 2000, August 2005, Department of IT, Ministry of Communications & IT, Government of India, New Delhi.

- Report of the Proposed Amendments to IT Act 2000, Department of IT, Ministry of Communications & IT, Government of India, New Delhi

1.3 International and scientific publications:

- Volumes published by UNESCO and ITU covering the conferences organised including Plenipotentiary Conference including the "Meeting of Experts on a Draft Declaration concerning the Role of the Mass Media: Report." Available at the British Library Document Supply GP/UNESCO 6535

- Reports pushed under the series "Mass Media and National Cultures" UNESCO, published under the International Association for Mass Communication Research (IAMCR) available at British Library Document Supply 4359.529500 No 3 1980

- UNESCO "The mass media declaration." Published by Kaarle Nordenstreng, with Lauri Hannikainen. Norwood, N.J.: Ablex Pub. Corp., c1984. Available at the British Library Document Supply 84/25409

- Reports on the ITU proceedings published by the Telecommunications journal, Vol. 1- 32. Available at the British Library

- Final Report on the UNESCO Mass Media Declaration titled Consultation on ways to promote the inclusion of the principles of the Declaration on the Mass Media and the concept of the New World Information and Communication Order (NWICO) Paris, UNESCO, 1979 Available at the British Library Document Supply 9096.981500 CC-79/WS/126

- Documents related to the the Ninth Annual Internet Governance Forum Meeting held in Istanbul, Turkey from the 2-5 September 2014. (Further details: http://www.intgovforum.org/cms/documents/igf-meeting/igf-2014-istanbul/246-chairs-summary- igf-2014/file

- Documents relating to the 'Digital India' project, official launched in September 2014. These combine a range of existing schemes launched under the previous government. Broad focus areas include - as per official policy document – "broadband highways, mobile connectivity everywhere, public Internet access programme, e-Governance, e-Kranti (which aims to give electronic delivery of services), information for all, electronics manufacturing, IT for jobs and early harvest programmes."

- Documents related to Committee for Internet Related Policies (CIRP) including the proposal under the Agenda item 16: Information and Communications Technologies for Development at the 66th Session of the UN General Assembly, New York, October 2011.

Appendix 2

Following is a list drawn on the basis of key individuals and associations interviewed for this research. It only provides the institutions and affiliations of the main interviewees. I conducted thirteen face to face interviews besides another dozen more informal discussions at various points in time from September 2013 until May 2016. Section 2.2 lists the key events and meetings where I either participated as invited guest or attended in informal capacity, described in more detail in Chapter 3.

Appendix 2.1

List of interviewees:

1. Members of India's official delegation to the World Conference on Information Technology (WCIT), held at Dubai in December 2012. Conducted in Delhi March 2014-January 2015 (with additional inputs through Skype).

2. Policy advisor to the Indian government on issues of telecommunications and Internet Governance Forum (IGF) including from the Indian Council for Research on International Economic Relations (ICRIER). May 2014. Delhi.

3. Member of the Expert Committee, Proposed Amendments to IT Act 2000, August 2005, Department of IT, Ministry of Communications & IT, Government of India, New Delhi.

4. Policy advisor and official from the Department of Electronics and Information Technology (DEITy), and Department of Telecommunications (DoT). Sanchar Bhawan. Delhi.

5. Member of the Center for Communications Governance. National Law School University of Delhi.

6. Members working with the Center Communications and Media Governance, Jamia Millia Islamia.

7. Senior journalist and member of the Working Group on Mass Media (1978)

8. Senior Indian representative to the International Telecommunications Union, including members and representatives to the UN's World Summit on Information Society (WSIS) held in 2003 and 2005.

9. Senior representatives from the Indian chapter of 'Internet Society', an independent NGO involved in Internet related policy especially in Asia-Pacific regional ITU forum.

10. Representatives from Center for Knowledge Commons, and activists affiliated with the Communist Party of India (Marxist) and related publication People's Democracy.

11. Representatives from Indian delegation to the Net-Mundial. Interviews conducted on the sidelines of consultation held in March-April 2014, details in next section.

12. Members of India's official and civil society representatives to the Internet Corporation of Assigned Names and Numbers (ICANN). January 2015. Delhi.

13. Representatives from policy NGO, IT for Change and Center for Internet and Society (CIS). Bangalore. January 2014, January 2015

14. Members of Internet and Mobile Association of India (IAMAI). March-April 2014. Delhi.

15. Policy advisors to Google and other IT sector firms represented at the IAMAI annual 'Digital Summit', April 2014.

16. Members, including founders of the India GII. Delhi and Bangalore.

17. Representatives of media and communications policy groups associated with the Internet Service Providers' Association of India (ISPAI). Delhi.

18. Representatives from the Subcommittee on Broadband development at Federation of Indian Chambers of Commerce and Industry (FICCI) and 'Infrastructure Committee' in Chambers of Indian Industry (CII).

19. Members representing India at the Ninth Annual Internet Governance Forum Meeting held in Istanbul, Turkey in 2014. Delhi

20. Industry and official representatives attending the 2014 ITU Plenipotentiary Conference held in Busan, Republic of Korea. Delhi.

21. Representatives from the Cyber-Café Association of India (CCAOI), on the sidelines of the 'India's Internet Ecosystem' meeting. More details in next section.

Whenever a formal interview took place, the informants were required to sign-off on a 'Consent form' provided by the researcher. Copies of the information sheet and consent form are attached in the Appendix 3 and signed forms are available with the researcher.

Appendix 2.2

Key policy meetings attended in the course of my fieldwork:

- 8th India Digital Summit (Sponsored by Google and Facebook) hosted by IAMAI, as The Lalit International, New Delhi. April 2014. For key list of speakers see: http://www.iamai.in/events/12IDS/previous-year-speakers.html (URL accessed June 2018). *Among others sessions were sponsored by Google, Facebook and other leading members of the NASSCOM and India's IT sector.*

- Workshop on India's 'Internet Ecosystem: A India-Bharat model' with the official agenda to bring together all "Stakeholder communities -

Government, Industry, Industry Associations, Civil Society, Academia, Experts, Lawyers, Educationists, Politicians, Media and Internet users" and deliberate on key policy issues including media policy and privacy. India Habitat Center, New Delhi. February 19, 2014. Participants included representatives from the Cellular Operators Association of India (COAI), Data Security Council of India, Digital Empowerment Foundation, Free Software Movement of India, Internet and Mobile Association of India, Internet Service Providers Association of India, IT for Change (Bangalore), National Association of Software and Services Companies, Telecom Equipment Manufacturers Association of India (TEMA). *Sponsored by Cyber Café Association of India (CCAOI), National Internet Exchange of India (NIXI), Internet Service Providers Association of India (ISPAI) and IT for Change (Bangalore.)*

- Internet Governance policy forum hosted to set India's agenda for' NETMundial- A Global Multistakeholder Meeting on the Future of Internet Governance' held at Sao Paulo, Brazil in April 2014. Discussion led by members of the Free Software Movement of India (FSMI) and Society for Knowledge Commons. India International Center. March 2014. Delhi. *Sponsored by the National Internet Exchange of India (NIXI).*

- Additionally, I attended several public events and held informal discussions with members of India's FOSS network, radio and community media groups as well as NGOs related to RTI movement in India. These include:

  ➢ An event to launch of Creative Commons India (co-organised by Wikimedia India, Acharya Narendra Dev College and CIS. The chief guest was Congress leader Shashi Tharoor, Minister

of State for Human Resource Development, India Islamic Cultural Centre. November 12, 2013.

➢ *Manthan 2013,* an annual event hosted by 'Digital Empowerment Foundation'(DEF) in in partnership with World Summit Award, Department of Information Technology, Govt. Gives out awards in a range of areas including 'e- Localization, e-News & Media, e-Entertainment & Games, e-Travel & Tourism, e-Science & Technology'. Indian Habitat Centre, Lodhi Road, New Delhi. 4-5th December, 2013.

➢ *Manthan* (above) also hosted *Digital Minorities Summit* to create a 'National Level Deliberation on how ICT and Digital Inclusion can help overall development of Minority Communities in India.'

Appendix 3

<u>Consent Form</u>

Form approved by the Ethics Committee, KCL, August 2013

CONSENT FORM FOR PARTICIPANTS IN RESEARCH STUDIES

Please complete this form after you have read the Information Sheet and/or listened to an explanation about the research.

Title of Study: <u>Ideas and Institutions in India's Global Communications and Internet Policy</u>

King's College Research Ethics Committee Ref:

Thank you for considering taking part in this research. The person organising the research must explain the project to you before you agree to take part. If you have any questions arising from the Information Sheet or explanation already given to you, please ask the researcher before you decide whether to join in. You will be given a copy of this Consent Form to keep and refer to at any time.

Please tick or initial

- I understand that if I decide at any time during the research that I no longer wish to participate in this project, I can notify the researchers involved and withdraw from it immediately without giving any reason. Furthermore, I understand that I will be able to withdraw my data up to the point of publication.

- I consent to my interview being audio/ recorded.

Yes	No

- I consent to the processing of my personal information for the purposes explained to me. I understand that such information will be handled in accordance with the terms of the UK Data Protection Act 1998.

Participant's Statement:

I _____

agree that the research project named above has been explained to me to my satisfaction and I agree to take part in the study. I have read both the notes written above and the Information Sheet about the project, and understand what the research study involves.

Signed   Date

Investigator's Statement:

I _____

Confirm that I have carefully explained the nature, demands and any foreseeable risks (where applicable) of the proposed research to the participant.

Signed   Date

Information Sheet

We would like to invite you to participate in this postgraduate research project. You should only participate if you want to; choosing not to take part will not disadvantage you in any way. Before you decide whether you want to take part, it is important for you to understand why the research is being done and what your participation will involve. Please take time to read the following information carefully and discuss it with others if you wish. Ask us if there is anything that is not clear or if you would like more information.

Project Title: <u>Ideas and Institutions in India's Communications and Internet Policy</u>
Researcher: <u>Aasim Khan</u>

This research is investigating the role of institutions and ideas in shaping India's choices related to the global communications and internet related policies. It is inviting people who have been have either been part of the policy-making processes or have been witnesses to the various policy debates on these topics. These include policy specialists working in the government, academics, journalists and members of the civil society who engage in these policy debates. Policy debates related to development of the internet network in India, regulations related to social media as well debates about India's policy goals and choices regarding global communications networks form the case studies for this research.

If you choose to take part in this research, the researcher will email you or get in touch with you in person through phone (based on the contact details provided by your office) with some short questions regarding your experience in the relevant field of policy.

There are no risks involved with participating in this research. Interviews will be recorded, subject to your permission. Recordings of interviews will be deleted upon transcription. These details will not be made available to anyone other than the researcher, nor will they be included in the thesis. Such information will be deleted upon completion of the thesis.

It is up to you to decide whether to take part or not. If you decide to take part you are still free to withdraw from the study at any time and without giving a reason.

If you have any questions or require more information about this study, please contact the researcher using the following contact details: **Aasim Khan** at the King's India Institute, King's College London, The Strand, London, WC2R 2LS. Email: <u>aasim.khan@kcl.ac.uk</u>

If this study has harmed you in any way you can contact King's College London using the contacts below for further advice and information: Dr Louise Tillin, Lecturer in Politics, King's India Institute, King's College London, Email: <u>Louise.Tillin@kcl.ac.uk</u>

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