Recent cases involving content posted on social media websites like Facebook or Twitter have been used to incite hatred against particular sections of society.

The government tried to get the offending comment removed from social media websites and other intermediaries. Some flatly refused the government’s request.

This section deals with intermediaries, or those organizations that store or transmit our information and their rights and duties as defined under this act.

It also deals with situations under which the government can monitor communications. This can lead to invasion of privacy by the government, something that must be guarded at all costs.

**Q. What is an “intermediary”?**

An intermediary with respect to electronic records means a person who receives, stores, transmits or provides any other service on that electronic record on another person’s behalf.

According to this definition, social media websites like facebook or twitter and email applications like Gmail qualify as intermediaries.

**Q. What organizations are classified as intermediaries?**

**T**elecom service providers, network service providers, internet service providers, web- hosting service providers, search engines, online payment sites, online-auction sites, online-marketplaces and cyber cafes have been classified as intermediaries.

**Q. Can the government direct an intermediary to cooperate?**

Yes. On the intermediary must preserve and retain any information prescribed by the central government for any duration. The intermediary or person-in-charge of the computer resource is also required to provide technical assistance and extend all facilities to any agency to enable access to the desired computer resource.

Failure to do so can result in punishment of the intermediary with a term that extends to three years and a fine.

**Q. Are there any conditions in which intermediaries are not liable?**

An intermediary is not held liable for any third party information, data or communication link made available or hosted by him.

The above is applicable only if:

- The intermediary only provides access to a communication system over which information is made available, transmitted, stored or hosted by third party.

- Intermediary does not initiate transmission, select its receiver or modify content in transmission

**Q. Are there any conditions in which the intermediary can be held liable for third party content?**

Yes. An intermediary can be held liable for third party content:

- The intermediary has conspired or abetted or aided or induced commission of an unlawful act.

- Intermediary fails to remove or disable access to content when asked to do so

**Q. What powers of interception does the government give itself?**

The central or state government can intercept, monitor or decrypt any information generated, transmitted, stored or received in any computer resource.

The central government, through a notification in the Official Gazette can authorize any agency to carry out this work.

**Q. Under what conditions can the government invoke such powers?**

These powers can be invoked by the government in the interest of sovereignty, integrity, defence of India, security of the State or friendly relations with the foreign States or public order.

**Q. What sort of assistance is to be extended to the government for interception?**

A subscriber, intermediary or person-in-charge of the computer resource will have to extend all facilities and technical assistance to:

- Provide or secure access to the computer resource that generates, transmits, sends or receives this information

- Intercept, monitor or decrypt the information

If the central or state government directs a subscriber to provide all assistance in decrypting information, the reasons for doing so must be recorded in writing.

Failure to do so can be punished with imprisonment of up to seven years and a fine.

**Q. What are the government’s powers to block access to websites?**

The government gives itself wide-ranging powers to block access to certain websites that are deemed to:

- aid the commission of a cognizable offence

- harm the sovereignty, integrity and defence of India

- harm relations with foreign States

Note that access to websites can be blocked even if any websites are deemed to cause any of the above.

**Q. Do I, as a private citizen have a “right to privacy”?**

For questions to privacy, see our section on privacy.

--Ends