

# Impact Of Digital Censorship on Freedom of Political Expression

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**Abstract**—In modern nations, the internet has emerged as a crucial medium for democratic involvement, civic engagement, and political discourse. Restrictions on internet access present major issues for democratic accountability and freedom of expression as political conversation increasingly moves to digital platforms. This study looks at internet shutdowns in India as a type of digital censorship and evaluates how they affect the freedom of political expression protected by both international human rights legislation and the Indian Constitution. The Indian Telegraph Act of 1885, the Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules of 2017, and further legislative developments are all examined in this article as part of the legal framework governing internet shutdowns in India

The Supreme Court's ruling in *Anuradha Bhasin v. Union of India*, which acknowledged internet access as essential to the exercise of freedom of speech and expression and subjected shutdowns to the tests of legality, necessity, proportionality, and temporariness, is particularly examined. Using a doctrinal and socio-legal approach, the paper demonstrates how internet shutdowns frequently result in disproportionate limitations on political communication, despite being justified on the grounds of public safety and order. Such policies restrict information availability, impede political mobilization, and have a chilling effect on civic engagement.

## I. INTRODUCTION

The preponderance of digital speech under the realm of modes of communication, spreading its influence into every sphere of knowledge of the society. The use of the electronic medium on which digital speech embark itself to makes its way to everyone mind to establish its relevancy is the new reality and the need of the contemporary world, thus digital speech is much more amenable because of its ubiquitous nature and more accessibility to commons. When we talk

about the importance of digital speech we can establish an analogy as , “if we juxtaposed digital speech with other form of communication, digital speech is the most unique way of communication, reason behind this is the rampant growth in globalization in the early 21'st century which brings an electronic communicating device proximally to the larger population in the society marking the starting of digital era, this digital platform assimilates people towards more sense of interconnectedness and the super-fast sharing speed of information from one place to another vanishes the gap of delay and provides more efficiency in communication. Talking as per the terms of constitution, digital speech makes its place under the article-19(1)(a) of the constitution of India, which talks about the freedom of speech and expression, this fact puts a special emphasis on the capabilities and useability of digital speech for the betterment of society by the commons, supported by the different wings of the democracy. The problem arises when the government wants to take control over the regulation of digital platform, to have unwavering power just to suppress the voices of dissent and criticism against the government. Government uses arbitrary laws and regulations to maintain its hegemony by undermining the rights of the citizens, including the fundamental rights. Censorship becomes a political tool, only invoked when the matter is pertaining to criticism against the government, because Censorship is a practice of suppression, restriction or control by an authority, institution or any governing body, who are having the legitimacy and power to do that against the piece of information, ideas, thoughts or expression, which are having objectionable or malevolent demeanor for the society to satisfy the purpose of maintaining social order, national security and peace in the region, but the problem with this lies under the unilateral

interpretation of the words used under the definition by the executive officers, “they do what they seems fit for their bias”, this creates a disparity in the society which is detrimental for the collective welfare of the nation. Thus, when we combine the working principles of the both, internet and censorship, we can succinctly articulate the definition of internet censorship, as “the control or suppression of digital piece of information, amenable for various digital platforms regulated by governments, organizations, or any other internet service provider”. The primary motive of internet censorship is the expulsion of illegal, offensive, and politically sensitive information from the mainstream of the society. Assimilating everything together by the government to devise new ways in order to misuse the act of internet shutdown, content removal from the digital platforms, and things similar to these, under the veil of threat to national security is the prime concern of the hour, because with passing days voices of citizens are losing their soul and pushing everyone in the pit of darkness, can be labelled as “electoral autocracy”. This paper will be focusing on the instances where the executives overreach their power to curb proliferation of reality blended with the truth in the society and try to decipher recommendation to solve the rising problems of the hour, in consonance with humanitarian principles.

## II. RESEARCH OBJECTIVES

- To analyse the demeanor of those statutes, which are related to internet affairs, being boon and bane at the same time.
- Addressing the limitations imposed on Fundamental rights by the executives and to what extent they are legitimate from the perspective of rationality.
- To analyse the impact of internet shutdowns and focusing on instances where article 19(a) was jeopardized.

## III. METHODOLOGY

This research paper's methodology is a mixed-method approach that blends quantitative and qualitative analysis. Reports, surveys, and statistical databases were the sources of quantitative data used

to examine the prevalence and trends of digital censorship that impact political expression in various jurisdictions. In order to collect current data and case studies on digital censorship practices, a thorough review of the websites of governmental and non-governmental organizations was conducted. To comprehend the theoretical foundations and legislations regarding digital censorship and freedom of political expression, books and academic articles were also consulted. Legal texts and case laws were subjected to content analysis in order to assess how well sovereignty, integrity, and free speech were balanced. To find reoccurring patterns, weaknesses, and implications for democratic governance, observations were critically examined. Sources like Google Scholar were also used for this paper.

## IV. THE CROOKED LEGISLATIONS

### INFORMATION TECHNOLOGY ACT, 2000

The Information Technology act, 2000 is another cornerstone in India for the regulation of electronic communication. This particular act gives room to both the facets of electronic communication, first is upholding the rights and accessibility of the agencies involved in the due course of electronic communication, by providing a standard framework for the same, and the other facet is , addressing the lacunas which are having the potential to get erupted by electronic communication, by strengthen the interventionist power of the government and other institutions delegated with the work of safeguarding the interest of the individuals and to protect the sovereignty, unity and integrity of India.

When an act is imposed in the domain of a society, then after that we can notice onto the problems it is making against those who were promised to be safeguarded by the act. If we talk specifically about the section-69 of the Information technology act which states “ Power to issue directions for interception or monitoring or decryption of any information through any computer resource.”<sup>1</sup>, it becomes very much clear from the same instance that the framers of the act were not in the conscience of maintaining or respecting the fundamental rights of the citizens, the framers arbitrarily providing incomplete definition and interpretation of instance marking them the basis for the snatching away the rights guaranteed by the constitution of India and

labelling it to be lawful as per their ambiguous book of dictionary.

This action also enables power to the executive authorities to decrypt the messages without taking prior permission from any judicial body, which puts rights at stake of individuals who is the originator or a mediator of the message, this sort of working mechanism of the government bodies or any executive authority proliferates a chilling effect<sup>2</sup> among the people of the nation, thus mass surveillance over the private information of the users develops a degree of distrust in digital platforms and catapulted the self-censorship temperament among the users.

The moment when we talk about privacy of an individual which is guaranteed under the article 21 of the Indian constitution, marked its establishment in the landmark case Justice K. S. Puttswamy (Retd) vs Union of India on 26 September 2018<sup>3</sup> is also not well fostered by the section 69, because the executive authority is having a control on accessing power over the private messages, by citing illegitimate ground for the accessibility and without the prior consent from the user.

The reporting or any type of news related to government and its policies or measures are also facing a lot of problem because of the unrestricted power of the executive authorities including the government. The journalists are always under the surveillance by the touts of government, and these touts are basically restricting the voice of the users who are trying to point out the problem arising because of the use of unregulated power of the government or can say the misuse of the authoritative power which is directly detrimental to the unity and integrity of the nation by infringe the fundamental rights of the citizens, like in the case of Manipur violence<sup>4</sup>, it is clear cut case of government trying to put a veil on its failure in administration by disabling the people of Manipur by internet shutdowns to raise their voice for recourse, because if the news comes to the mainstream news of the India, it will affect the vote share of the government. Thus, just to maintain the vote banks for the election these iniquitous politicians devoured the fundamental rights of the citizens and marking the death of the democracy by killing the sanctity of the constitution of India.

This section is primarily talk about the concept of safe harbor provided to the intermediaries, which

states that “Exemption from liability of intermediary in certain cases”<sup>5</sup>, so we can establish that intermediaries will not be held liable for the contents which are originated by the third party, provided that the intermediaries have to comply by the guidelines of the government which majorly states that, the intermediaries should have to endorse the principles of due diligence, which means intermediaries should not back any content which goes against the government or institution connected with the same. Intermediaries also faces the problem of coercion through the government or court order, which finds its legitimacy under section 79 of IT act ,2000, reason behind this is the constant fear of losing the immunity of safe harbor under this same section. The section 79 also comes with a lot of detrimental impacts for the free digital speech and expressions, including the political expression. Intermediaries are forced by the government or any other executive authorities to take down or remove the content from their platform, and these contents include legitimate political criticism, satire, or dissent against any coercive policies of the government which is needed to be addressed and make others also aware of the actual fact pertaining to reality. Thus, the over-censorship carried out by the intermediaries under the influence of unilateral laws formulated by the government creating a milieu of prejudice among the users and making them to adopt more self-censorship paradigm for their own words or medium of expression. If I have to mark instances where it is lowkey conspicuous that political expression of citizens is suppressed by using ambiguous parameters, one such instance is the removal of BBC's documentary on the Godhra incident<sup>6</sup>.

Moving forth to the section 84 of the information technology act, 2000, it articulates that “Protection of action taken in good faith. –No suit, prosecution or other legal proceeding shall lie against the Central Government, the State Government, the Controller or any person acting on behalf of him, [and adjudicating officers] for anything which is in good faith done or intended to be done in pursuance of this Act or any rule, regulation or order made thereunder.”<sup>7</sup>, I simple terms section 84 is doing an act of advocacy towards the acts done in good faith by the executive agencies of the government in matters pertaining to regulations of digital platforms and contents showed on it. Under this particular

section 84 of information technology act, 2000, the authoritative agencies executes their work in direction of unfolding the reality to protect the sovereignty, integrity and unity of India, but the thing to be noted here is ,they are doing these sort of acts merely on the basis of intuition and speculation not on the basis of solid facts and figures and adding to this, the executive authorities not even bother themselves to take prior permission from the court of law to execute their work and not even taking consent of the originator of the content, which in totality creates a room of arbitrariness in execution of the delegated power under this section. We can establish from this very fact of section being unilateral in the sense of upholding the interest of the parties, where it only put emphasis on the interest of the government and parties related to him, creating the whole milieu of disparity and undermining the establish legal rights and remedies of the users, including the fundamental rights talking specifically about the article 19(1)(a) of the constitution of India. The range of negativity of this section does not mark its end here, it also has significant amount of impact on judiciary the third pillar of democracy, by undermine the power of it and disproportionate the balance of power between the different pillars of democracy. The media commonly tagged as the fourth pillar of democracy is also seen inept to protect itself or the arts related to it, including the political expressions, dissent and journalism. Expounding further, section 84 also leaving impact of the chilling impact on free speech, citizens are afraid by the arbitrary rules and making them to compromise with their right to express their political opinions and thoughts, as scene in the case of (news channels, Kunal Kamara). In conclusive tone, some selected sections of the information technology act, 2000, undermining the neutrality of platforms who are facilitating to disseminate political expressions, dissent and things associated with it.

#### IT (Information Technology) RULES, 2021

The Information Technology Act of 2000 gave rise to the IT Rules of 2021 in India, which have generated debates and discussions on their effects on political and free speech. In a sense, they are designed to control digital content, but they can suppress political expression too which puts individual liberties and governmental control at odds in a digital democracy.

A number of rules in the IT Rules, 2021, have a direct bearing on online political expression.

#### Rule 3(1)(b)-

By permitting centralized control over information, this rule directly affects the right to political expression by requiring intermediaries to adhere to government-authorized fact-checking procedures. Content can be classified as false or misleading by the Press Information Bureau (PIB) or any other government-authorized organization. Concerns regarding impartiality are raised by this concentration of power, which also creates the possibility of repressing opposing political viewpoints. Words like "misleading," "patently false," and "fake" are subjective by nature and have no clear definitions. The government may be able to target politically sensitive content under the guise of fighting misinformation because of this ambiguity, which leaves space for wide interpretations. Legitimate political commentary may be eliminated as a result, restricting free expression and discouraging users who might be afraid of consequences for expressing critical views against government.

#### Rule 3(1)(d)-

This due diligence rule for intermediaries significantly favours government control, resulting in a legal framework that could jeopardize people's right to free speech. Its use of phrases like "public order," "sovereignty and integrity of India," and "decency or morality," is again expansive. This ambiguity gives the government the power to define what content is illegal, potentially stifling politically critical voices in the name of upholding public decency or state security. This issue is made worse by the clause requiring intermediaries to remove content within 36 hours of receiving a court order or government notification, which is known as a government-issued content removal order. Politically motivated removals are more likely because of the short deadline, which gives impacted people or platforms little opportunity to challenge the legitimacy of takedown requests.

#### Rule 3(1)(j)-

This rule, which may favour the government while violating people's right to political expression, requires intermediaries to give user information to

government agencies within 72 hours of receiving an order. Giving government organizations access to personal information for things like cybersecurity, investigation, and verification allows for broad surveillance that may target people based on their political beliefs, especially dissident voices and anti-government activists.

#### Rule 8 -

This would again result in the arbitrary exercise of power without any checks and balances. It applies to news and current affairs publishers as well as publishers of online curated content, and they will be run by the Ministry of Information and Broadcasting, government of India, which is a part of the executive government. It implies that the government has direct control over online content regulations, which may result in the digital censorship of opposing viewpoints regarding the current administration.

#### Rule 9 -

As per this rule, intermediaries must comply with the rules and codes of ethics. To ensure adherence to these codes and to address grievances related to publishers, a three-tier structure for complaint resolution shall be established as- (These are actually the stages for grievance redressal.)

Level 1- Publishers' self-regulation

Level 2- Self-regulation through a self-regulatory organization

Level 3- Central government oversight mechanism

Chapter 4 of the IT Rules, 2021, describes the central government's oversight mechanism, which is the third level of the grievance redressal process. This system assigns responsibility for ensuring that publishers and self-regulatory organizations follow the Code of Ethics to the Ministry of Information and Broadcasting (MIB). According to this rule, the Ministry can create an Interdepartmental Committee to hear complaints, including those that haven't been settled by the self-regulating organizations and publishers, the first two tiers of the grievance redressal system. If the Interdepartmental Committee feels that a grievance has not been sufficiently addressed, it may also take it up on its own initiative. To further guarantee the upkeep and compliance with

the Code, the Ministry has the power to give publishers directives and orders, The Ministry of Information and Broadcasting, the Ministry of Women and Child Development, the Ministry of Law and Justice, and the Ministry of Home Affairs are among the executive government agencies represented on the Interdepartmental Committee. The rule also allows the Committee to address grievances directly raised by the central government.

This procedure shows how much authority the government has to control content in digital media. The government is likely to act in its own best interests, particularly when it comes to political expressions or opposing viewpoints on the internet. Freedom of speech and expression may be violated if the government removes content that criticizes its actions in the name of upholding the Code of Ethics.

#### SEDITION

Sedition refers to 'incitement of resistance to or insurrection against lawful authority'<sup>8</sup>. During the colonial era, the British imposed this law on India to restrict the right to free speech and expression.

During that period, the colonial government arrested a large number of leaders and freedom fighters who raised their voice against government. It is alleged that politicians violate the right to free speech by using sedition as a political tool. Section 124A of the Indian Penal Code (IPC) has historically served as the foundation for India's sedition legislation. It was widely criticized for being ambiguous and for being applied improperly to journalists, activists, and political dissidents.

The essence of Section 124A remains under Section 152 of the *Bhartiya Nyaya Sanhita* (BNS), the law's substantive content is remarkably similar even though the word "sedition" has been eliminated. Section 152 of the *Bharatiya Nyaya Sanhita* (BNS) is defined as: "*Anyone who intentionally or knowingly, through spoken or written words, signs, visual representations, electronic communication, financial means, or other means, incites or attempts to incite secession, armed rebellion, or subversive activities, or fosters feelings of separatist activities, or endangers the sovereignty, unity, and integrity of India, shall be punished with life in prison or imprisonment that may be extended to seven years, in addition to a fine.*"<sup>9</sup>

The famous Vinod Dua v. Union of India case shows that the abuse of sedition has been a persistent problem. "A citizen has the right to criticize or comment upon the measures taken by the Government and its functionaries, so long as he does not incite people to violence against the Government established by law or with the intention of creating public disorder," the court ruled in this instance. "Only when the words or expressions have a pernicious tendency or intention to create public disorder or disturb law and order must Sections 124A and 505 of the IPC take effect."

Journalist Vinod Dua was charged in this case under Section 124A of the IPC for expressing disapproval of the way the government handled the COVID-19 pandemic.

This judgement set a precedent for safeguarding free speech and expression and also provided relief to journalist by preserving their freedom of expression but the recent shift from section 124A of IPC to section 152 of BNS has raised similar concerns.

The definitions of terms in section 152 of BNS like "subversive activities," "encourages feelings of separatist activities," and "endangers sovereignty or unity and integrity" are unclear. Because of this imprecision, authorities are able to interpret it subjectively and categorize various types of dissent as threats to national security. Legitimate political expression may be restricted if political speeches, social media posts, or nonviolent protests are mistakenly categorized under this section. Because it imposes excessively broad restrictions that criminalize dissent, especially in the digital sphere, this section of the BNS violates the right to freedom of expression guaranteed by Article 19(1)(a) of the Constitution. By specifically mentioning "electronic communication," it broadens its definition to encompass online communities, blogs, and messaging applications. This makes it possible for authorities to monitor and control dissenting opinions online, leading to heightened surveillance and censorship of online content. The ambiguous wording permits the targeting of people for political debate or critical views, which breeds self-censorship and fear of legal action. In contrast to the reasonable limitations allowed by Article 19(2), this stifles democratic discourse, restricting the free exchange of ideas necessary for a thriving democracy and undermining the constitutional guarantee of free

speech and expression.

The idea of sovereignty and its authority are what give this crime its character. It is the nation and its citizens who are sovereign, not the rule of the government. Since the government is no longer in charge, they are no longer entitled to sedition protection. This law is currently being abused by both federal and state authorities against a citizen who is voicing legitimate concerns about a public figure or politician, or against a citizen who is justly criticizing their policies. It has been misused by the federal government and the states in the name of integrity and national security.<sup>10</sup>

In the majority of cases, the charges have rarely been upheld; instead, the punishment is the procedure. The inconsistency in the rulings has led to a patchwork of free speech rights and allowed local officials and interest groups to continue using the law to intimidate and harass dissidents and opposing viewpoints.<sup>11</sup>

Particularly in light of digital censorship, the continuation of the essence of sedition under Section 152 raises serious questions regarding the right to free political expression. The fundamental threat to democratic freedoms has not changed, despite the evolution of the medium of dissent from newspaper columns during colonial rule to tweets and blogs today.

#### DEFAMATION

Traditionally, defamation is defined as the act of making untrue claims that damage someone's reputation. Defamation laws are crucial for shielding people from hostile attacks, but when they are abused to target political dissidents, they compromise democratic values. According to section 356 of the BNS, defamation is defined as:- Anyone who, through spoken or intended words, signs, or visible representations, makes or publishes in any way any imputation concerning any person with the intent to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said to defame that person, except in the cases hereinbefore excepted.<sup>12</sup>

Online censorship and strategic defamation lawsuits are examples of this misuse in the digital age, where it is purposefully difficult to distinguish between defamatory content and valid criticism. In India, political motivations are frequently at the center of

defamation cases involving politicians. This law is frequently used by governments and political leaders to stifle criticism, with the pretext of reputational harm. This tactic not only suppresses dissent but also encourages self-censorship, in which people hold back from voicing their opinions for fear of facing legal consequences. Free speech on digital platforms was restricted during the pandemic as the government attempted to stifle criticism of its response to the crisis by labeling such online expressions as defamatory. Defamation lawsuits have developed into a potent weapon for stifling criticism, and influential people and organizations, such as politicians and corporate conglomerates, frequently use them. For instance, in 2017, Jay Shah, the son of Home Minister Amit Shah, filed a civil defamation lawsuit against The Wire, an independent online news portal, alleging criminal defamation and demanding 100 crores. According to the article in question, The Wire claimed that within a year of the Bharatiya Janata Party (BJP) taking office in 2014, Shah's company saw a sharp rise in revenue. The court issued a gag order to prevent The Wire from publishing any stories about Shah as a result of the suit filing. The Wire first filed to have the defamation charges dropped, but it later withdrew the application and instead chose to contest the case in trial.

In a different example, former Tamil Nadu chief minister J Jayalithaa brought more than 1,000 defamation charges during her six terms in office in an effort to suppress her political opponents, journalists, and civil society organizations. In one of these instances, a well-known social activist was singled out for sending critical WhatsApp messages about government relief operations during the floods in 2015.<sup>13</sup>

The financial cost of enduring criminal complaints as well as the ensuing abuse and harassment on social media, including the exposure of personal information, has been highlighted by journalists and activists as part of the burden of enduring baseless defamation lawsuits (similar to "Strategic Lawsuits Against Public Participation").<sup>14</sup> Online censorship and strategic defamation lawsuits are examples of this misuse in the digital age, where it is purposefully difficult to distinguish between defamatory content and valid criticism. In India, political motivations are frequently at the center of defamation cases involving

politicians. This law is frequently used by governments and political leaders to stifle criticism, with the pretext of reputational harm. This tactic not only suppresses dissent but also encourages self-censorship, in which people hold back from voicing their opinions for fear of facing legal consequences. Free speech on digital platforms was restricted during the pandemic as the government attempted to stifle criticism of its response to the crisis by labelling such online expressions as defamatory. Defamation lawsuits have become a powerful tool for suppressing criticisms, often relied upon by powerful individuals and corporations, including politicians and business conglomerates. For example, in 2017, Home Minister Amit Shah's son Jay Shah accused The Wire, an independent online news media portal, of criminal defamation, and sued The Wire for 100 crores in a civil defamation case. In the article at issue, The Wire alleged that a company owned by Shah had witnessed tremendous increase in its revenue within a year of the Bharatiya Janata Party (BJP) coming to power in 2014. The suit filing led the court to issue a gag order barring The Wire from publishing stories on Shah. While The Wire initially filed to quash the defamation charges, it later withdrew the application and instead chose to contest the case in trial.

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Journalists and activists have noted the burden of bearing frivolous defamation suits (akin to "Strategic Lawsuits Against Public Participation"), speaking of the financial cost of weathering criminal complaints as well as subsequent abuse and harassment on social media, including having personal information exposed.<sup>8</sup>

## V. THE PILLAR OF LIBERTY

### ARTICLE 19(1)(a)

The article 19(1)(a) of the constitution of India, displays how sagacious the framers of the constitution were who neatly carved out this

particular article, in such a manner that with change in time and society, the driving rational behind this article steer it in the same direction of evolution and also preserving the basic principles of the article intact. In the constitutional terms this is defined merely as “freedom of speech and expression”, but in the interpretative terms of rationality gives us the clear understanding of the article and emphasizes the relevancy of the same article in our day-to-day life. This particular article safeguards our every form of expression devised through any medium, like oral, written or innuendo. The bandwidth of the article increases by passing days, by fostering the changes in the global order, like the inception of digital era, brings itself various new way of communicating the messages or information to wider and those who live apart as well. The new era demands new framework of interpretation of laws to safeguard the interest of the citizens without compromising on the terms of their right to live with dignity. Thus, through various landmark cases and legislations all pillars of democracy collectively structured such a legal system where the speech and expressions made on the digital platforms like, political view, dissent and voice against the disparity will be safeguarded.

The article which sounds so meaningful and proportionate from every angle also comes with a lot of limitations, which is enshrined under the article 19(2), which reads like “) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of 4 [the sovereignty and integrity of India], the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence”, this article basically establishes the ground on which the basic proportionality of the words and acts should be maintained, which means no overuse of article 19(1)(a) should be carried out, which could lead to the encroachment of other’s right of, to live with dignity which falls under the article 21 of the constitution. There are numerous ways through which article 19(1)(a) can be violated, cases like, fake news, hate speech, cyber bullying, online harassment and many cases similar to these.

Shreya Singhal v. Union of India

In this landmark case, the point of contention revolves around the section 66A of the information technology act, 2000, which articulates that, “Punishment for sending offensive messages through communication service, etc.– Any individual who, through the use of a computer resource or communication device, sends: (a) information that is egregiously offensive or menacing; (b) information that he knows to be false but is used repeatedly to cause annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, or ill will; or (c) any electronic mail or electronic mail message with the intent to cause annoyance or inconvenience or to deceive or mislead the addressee or recipient about the source of such messages is subject to a fine and a maximum sentence of three years in prison.<sup>15</sup>

The brief explanation of this section should be, “it criminalizes the act of sending offensive, false and menacing messages by using the digital platforms, including the social media platforms. Later by the division bench of the supreme court, the section 66A of the Information Technology act, 2000 was struck down or can say abrogated.

There were a lot of problems associated with this section, primarily it failed to decipher the exact meaning, intent and the purpose of the words used the section which creates a void in the cell of interpretation of this particular section. Another problem with the section was, it gives unilateral power of interpretation of words used in the section to the executives in their own way, which creates or poses a detrimental threat to the freedom of speech and expression of the citizens of India.

The supreme court also pointed out the key findings of the case, which are, section 66a failed to align itself with the article 19(2) of the constitution of India, which articulates the ground of restrictions against the freedom given under the article 19(1)(a) of the constitution, court also added to its judgement that the section 66a also undermined the freedoms given under article 19(1)(a) of the constitution and leading to the atmosphere of chilling effect among the citizens. Thus, in the end of the case, by using the principle of proportionality, bench strike down the section 66a and emphasize the degree of interpretation of the article 19(1)(a), by preserving the freedom of digital speech and expression and

recognizing the importance of internet in the changing world order, including dissent is an essential part of political expression or can say to the democracy. Hence, this judgement will protect the internet platform users from arbitrary laws which tries to curb down their freedom of expressing their perspective, including political, social or economic basis, but court also restrict the users from not using these platforms to propagate any fake news or any motivated propaganda.

#### INTERNET SHUTDOWNS: AN ANTAGONIST IN THE VEIL OF PROTAGONIST

Internet shutdowns are being investigated more and more as a type of digital censorship that has a direct impact on democratic societies' ability to exercise their right to free speech. With the ability to voice opinions, rally support, obtain information, and engage in public discourse, digital platforms have emerged as crucial venues for political discourse. These political communication channels are disrupted when internet access is blocked, which restricts citizens' capacity to participate in political processes and voice opposing or dissenting opinions. Therefore, internet shutdowns serve as limitations on the democratic exchange of ideas rather than just administrative or technical measures.<sup>16</sup>

The Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017, which were established under the Indian Telegraph Act, 1885 and later revised under the Telecommunications Act, 2023, provide legal justification for internet shutdowns in India. These laws allow internet service to be suspended in "public emergency" or "public safety" situations. However, there is a lot of latitude in how these phrases are applied because there are no clear statutory meanings for them. Such discretion raises concerns from the standpoint of political expression because it can limit the practical enjoyment of constitutional freedoms by restricting digital access during times when political communication is most crucial, like protests, elections, or public mobilizations.<sup>17</sup>

In *Anuradha Bhasin v. Union of India*, the Supreme Court of India acknowledged that the right to freedom of speech and expression guaranteed by Article 19(1)(a) of the Constitution depends on having access to the internet. The Court ruled that limitations on internet access must be subject to

judicial review and meet the requirements of legality, necessity, proportionality, and temporariness. The ruling is important for political expression because it recognizes the importance of digital communication for democratic engagement.

Therefore, prolonged or permanent shutdowns run the risk of eroding constitutional protections by restricting citizens from accessing different political perspectives and participating in political discourse.<sup>18</sup>

International human rights organizations have stressed that internet outages have a disproportionately negative impact on civic engagement and political involvement. The same rights that people have offline, such as freedom of expression, must also be upheld online, according to the United Nations Human Rights Council.

Because they limit access to legal political expression rather than focusing on particular damaging content, blanket internet shutdowns have come under fire for not adhering to international norms of necessity and proportionality.

Even if access is restored, internet outages have a chilling effect on political expression, according to academics and human rights organizations. People are deterred from taking part in online political conversations by frequent or erratic shutdowns because they are afraid of being watched or subject to future limitations. By reducing the channels via which citizens can challenge power, spread political ideas, and hold institutions responsible, this degradation of digital civic space undermines democratic culture.<sup>19</sup>

In conclusion, internet shutdowns constitute a major restriction on the right to free speech when viewed through the prism of digital censorship. Although states may defend such actions on the grounds of public safety or public order, their effects on constitutional freedoms and democratic participation require close examination, openness, and efficient judicial review to guarantee that they are consistent with democratic ideals.

#### VI. THE MOMENTS OF UNCERTAINTY

##### FARMER'S PROTEST

The farmer's protest of 2021 in India was a far-reaching social movement headed by the farmers of different states of India, primarily from Punjab,

Haryana and Uttar Pradesh. The farmers were basically raising their voices against the then enacted three contentious farm laws, formulated in the late September of 2020. The concerns of farmers were bit different to what government was trying to endorse through the proposed farm laws, farmers were basically wanted the government to dismantle the new farm laws and legislate completely new laws after knowing the need of the farmers and time, to properly balance the interest of every agency indulge into or affected by the agrarian economy. But the reality of the new laws was “it was deemed to fulfil the interest of the corporate firms only”<sup>20</sup>. This dissent cumulatively converted into a pan India protest, farmers marched towards the boarder of the national capital, and mark the initiation of peaceful protest, but on the contrary government does not seemed cooperative to upheld the interest of the farmers, instead of addressing the plight of the farmers, government tried each and every way possible to crumple down the peaceful protest, including the internet shutdown in the vicinity of the protesting place and served notices to various social media platforms to struck down the post related farmers protest, by invoking the section 69A of the Information Technology, 2000.

#### CAA PROTESTS

The Citizenship amendment act, 2019, one of the most controversial bills of the decade among the citizens. The bill actually seeks to amend the Citizenship act, 1955 to make Hindus, Buddhists, Jains, Parsis, and Christians who are illegal migrants from the regions of Afghanistan, Bangladesh and Pakistan, eligible for the citizenship of India, but the contentious part of the bill is, it does not include the illegal migrants who belongs to the Islamic religion, means Muslims. The provisions of the bill are contrary to things which are enshrined under the constitution of India, particular contrary to the article 14, which talks about the doctrine of equality among the equals. When the bill was proposed in the parliament, nation-wide protest and dissent were erupted, peoples were showing their resistance against the bill either by protesting on the street or taking the help of social media platforms to raise their voice, various student unions like North-East student organization voiced their dissent against the bill and talking about the possible plight which might

can happen, using twitter and Instagram to assimilate people under the hashtag #NOCAB<sup>21</sup>, were conspicuous of their resistance.

Social activism on digital platforms, like raising political awareness, is something which embraced by the majority, because of its flexibility in terms of useability and accessibility, including the amount of impact it is putting by congregating people from different parts of the world, for the purpose of raising voice against the suppressors, without having a selfish temper behind their support. On the other hand, the governments were seen bit on the contrary to the evolution in medium of expression, talking specifically about the instance happening in India, where government of India tried multi ways to crumple down the voice for change, by imposing internet shutdown in the region, like in the case of CAA protest happening in the capital region, and this was the first time the capital city of India witnessed internet shutdown, and if we add the hours of internet shutdown pan India related to CAA protest touches the mark of 6413 hours <sup>22</sup>.

#### MANIPUR ISSUE

It was started back in the year of 2023, one of the darkest chapters in the history of independent India. The reason behind the protest was primarily revolve around the different interest of distinguished tribes of the region, mark its history of clash from time immemorial. This particular protest had witnessed every sort of heinous crimes or acts that could be carried out by humans, just for their satisfaction of greed. The protestors made two girls walk nakedly on the street and later them raped them brutally, adding to the act of vulgarity they had made a video of the whole incident, just to show their hate towards the other tribes and the inefficiencies of state in resolving the dispute in the form of meeting the demands of the protestors. Here the main problem which this research paper needs to show is, the video of two girls or the heinous act against the girls was surfaced after passing of 79 days <sup>23</sup>, the reason behind was blatant and arbitrary internet shutdown in the area, making the family of the sufferers inept to raise their voice for help, and even the police stations refused to lodge the first information report or the zero FIR. After the circulation of video, the prime minister of the nation made a small effort to utter couple of words on the bad situations of Manipur.

### Jammu and Kashmir post-article 370 Abrogation: Suppression of Dissent and Political Expression

A turning point in the history of Jammu and Kashmir (J&K) was reached on August 5, 2019, when Article 370 of the Indian Constitution was repealed. The region's special status was revoked along with a number of previously unheard-of administrative actions, such as a prolonged internet shutdown.

Jammu and Kashmir faced the longest internet shutdown in India's history lasting 7 months — between 4 August 2019 to 4 March 2020 — after the Article 370 of the Constitution was abrogated by the Indian government.

The Indian government used national security, upholding law and order, and halting the spread of false information and possible unrest as justifications for the internet ban. Authorities enforced a total communication blackout, including the suspension of landline, broadband, and mobile services, in anticipation of widespread demonstrations and violent altercations. Internet services remained restricted for months, but limited phone connectivity was restored after a few weeks. Section 144 of the Code of Criminal Procedure and the Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017 regulate internet shutdowns in India. Nonetheless, the J&K shutdown's scope and length drew criticism from all around the world.

Using harsh laws, policies, and illegal practices, the Indian government has been ruthlessly suppressing the media and civil society in Jammu and Kashmir in an effort to quell dissent.

The Supreme Court of India held in *Anuradha Bhasin v. Union of India* (2020) held that restrictions must be proportionate and subject to periodic reviews, and that indefinite internet shutdowns are unconstitutional.

Access to faster internet speeds could be used to support terrorism, according to the official narrative in court. The petitioners contended that the two had "no rational relation." Senior Advocate Huzefa Ahmadi even noted that the majority of terrorism cases in the state were initially committed in places without internet access.

Despite this, internet restrictions in J&K persisted, with slow-speed 2G internet replacing high-speed 4G services until early 2021.

### VII. SUPPRESSION OF DISSSENT AND POLITICAL EXPRESSION

The right to freedom of speech and expression, which is guaranteed under Article 19(1)(a) of the Indian Constitution, includes access to the internet too. The internet shutdown in J&K severely restricted this right, led to shutting down of dissenting voices and limiting political discourse.

Journalists faced insurmountable challenges due to the digital blackout. Media organizations struggled to report ground realities, and press freedom was curtailed. Reporters had to rely on limited government-approved internet kiosks, severely restricting independent reporting. According to data from the South Asia Terrorism Portal, before 2006, when internet speeds were slower or nonexistent in some places, terrorism was far more common."

In addition to this The Indian government has complete control over information leaving the region thanks to the implementation of restrictive media laws like the 2021 Film Policy and the 2020 Revised Media Policy. Following a six-month initial internet shutdown, Indian authorities continue to frequently and frequently suspend internet services in different parts of Kashmir without warning. A further blow to the already collapsing media pool was the Indian government's abrupt and enforced closure of the Kashmir Press Club in 2022.

A number of political figures were placed under preventive detention, including former Chief Ministers Farooq Abdullah, Omar Abdullah, and Mehbooba Mufti. Due to limited digital connectivity, political parties were unable to express their opposition or interact with their supporters. Activism lost its effectiveness when social media, which was frequently used as a forum for voicing political concerns, became inaccessible.

The Indian government put pressure on online services like Razorpay and WhatsApp, which is owned by Meta, to disclose user information. Kashmiris rightfully believed that the government could completely monitor their online activities due to India's tightening controls over the internet and personal data.

As a result, Kashmiris are now much more cautious about the things they choose to do online, which has had a chilling effect on them. Kashmiri content producers attest that they are no longer as candid or

critical about the subjects they discuss on their YouTube channels or Instagram reels.

In place of widespread, indiscriminate shutdowns, Human Rights Watch and the Internet Freedom Foundation urge the central and state governments of India to honor their pledges to provide "an open, free, global, interoperable, reliable, and secure internet" for all people and make sure that their limitations on internet access do not infringe upon the rights and privileges of the nation's underprivileged groups.

The international community, including the United Nations, the European Union, and prominent human rights organizations like Amnesty International, expressed concern over the internet suspension in J&K. The UN Special Rapporteur on Freedom of Expression highlighted that prolonged shutdowns violate international human rights standards, emphasizing the essential role of the internet in modern political participation.

Significant economic disruption was also brought on by the internet restriction. Significant losses were incurred by companies that depended on e-commerce, digital transactions, and the travel and tourism sector. During the epidemic, students were deprived of learning possibilities since educational institutions were unable to offer online courses.

A prime example of how digital censorship may stifle political discourse under the guise of national security is the J&K internet shutdown. The case emphasizes the necessity of unambiguous legislative protections against capricious and protracted internet bans. It also draws attention to the conflict that exists between the defense of fundamental rights in a democracy and the demands of state security. Following the repeal of Article 370, Jammu and Kashmir saw an internet blackout that severely harmed democratic freedoms, especially the freedom of speech and political expression. The extended shutdown successfully suppressed opposition, blocked media coverage, and reduced political participation, despite the government's justification of law-and-order concerns. Making sure that national security measures don't violate civil liberties is still a major concern for democratic governance as digital connectivity becomes more and more integrated into political debate.

#### INDIA'S PANDEMIC ERA

Many Indians used social media to urge the

government to enhance its response to the public health emergency after the coronavirus pandemic began in India, killing thousands of people. In an effort to threaten online free speech, the government of the world's most populous country was observed suppressing those critics. Additionally, the Indian government has asked Twitter and other companies to remove content that it claims contains false information about the COVID-19 pandemic. However, detractors claim that Prime Minister Narendra Modi's political leadership in India is going too far and stifling criticism of the administration's pandemic management by leveraging the idea of disinformation. India was also criticized internationally for this restriction of digital freedom. False information about the COVID-19 pandemic in India has increased since January 2020. Much of the misinformation in the beginning was about strategies to fight COVID-19. In response to criticism of its management of the rapidly growing Covid-19 outbreak in the nation, the Indian government ordered Twitter Inc., Facebook Inc., and Instagram to block roughly 100 social media posts. This sparked outrage from the public and accusations of censorship in the most populous democracy in the world.<sup>24</sup>

India's attempts to stifle criticism of the government were indicative of a larger erosion of free speech in the nation. The number of writers imprisoned in India in the past year has alarmingly increased, according to PEN America's 2020 Freedom to Write Index. Many of these detainees are facing politically motivated legal charges for their advocacy on behalf of underrepresented groups in India. Several dozen writers have faced physical threats, lawsuits, online harassment, and other forms of intimidation in addition to instances of detention or imprisonment.<sup>25</sup>

By defining prohibited information to include any remarks that could incite mistrust towards the government, the Mumbai Police Commissionerate effectively sought to gag anyone criticizing the state government's actions on May 23, 2020, by using its broad discretionary powers under section 144 of the Code of Criminal Procedure to issue guidelines regarding social media use. The gag order held those appointed as WhatsApp group administrators personally accountable for the dissemination of false information within those groups and alluded to the government's issues with fake news and

misinformation on social media.<sup>26</sup>

In order to control the virus's spread during the pandemic, the Indian government also used the Disaster Management Act, 2005 (DMA). But this invocation also resulted in measures that restricted political and speech freedom. False information dissemination is illegal under Section 54 of the DMA, which imposes penalties on anyone who creates or disseminates alarms or warnings that could cause panic. This clause was used to bring legal complaints against reporters and others who disagreed with the way the government handled the pandemic. For example, reporters covering administrative failures during the health crisis were charged under the DMA and other laws in several states.<sup>27</sup>

The mass departure of migrant workers during the nationwide lockdown was even attributed by the Indian government to disinformation. In the face of famine, homelessness, and virus susceptibility, migrant workers attempted to return to their hometowns. A significant portion of the migrants started walking great distances to get home after transportation services were shut down. The mass departure of migrant workers during the nationwide lockdown was even attributed by the Indian government to disinformation. In the face of famine, homelessness, and virus susceptibility, migrant workers attempted to return to their hometowns. A significant portion of the migrants started walking great distances to get home after transportation services were shut down. The Central government was requested to explain the plight of the migrants in two petitions to the Supreme Court to improve their lot in life. The government claimed that the mass migration was primarily caused by the dissemination of misleading information, and in an effort to combat this, it implemented pre-censorship on the media, which prohibits media outlets from covering COVID-19 news before first obtaining the Central Government's factual position. The Supreme Court has denied the central government's request for prior censorship.

Therefore, a worrying trend of using disinformation as a pretext to stifle dissent is highlighted by the Indian government's actions during the COVID-19 pandemic, which included restricting digital freedoms and censoring criticism. While combating disinformation is important, these actions run the risk

of compromising freedom of speech and openness, both of which are essential in democracies, particularly in times of crisis. To preserve confidence and accountability in governance, a balanced strategy that protects both public order and fundamental rights is necessary.

#### VIII. STEP TOWARDS RACTIFICATION

##### ANURADHA BHASIN VS UNION OF INDIA<sup>28</sup>

The problem started on August 4, 2019, when the state of Jammu and Kashmir restricted travel in particular areas and suspended mobile, landline, and internet services. On August 5, 2019, the Indian government issued Constitutional Order 272, also referred to as the Constitution (Application of Jammu and Kashmir) Order, 2019, which revoked J&K's special category status. In view of these circumstances, Section 144 was imposed on the fear of violation of the peace and tranquillity of the state. According to the petitioner, Ms. Anuradha Bhasin, executive editor of Kashmir Time, internet shutdown and movement restrictions violated the Indian Constitution's Article 19 right to freedom of the press and profession.

Ghulam Nabi Azad also filed a petition to reverse the government directives shutting down communication and restoring all modes of communication for the protection of journalists' freedom of speech and expression as well as media freedom. The plea was joined after arguments and review of the submissions and supporting evidence from both sides. The case was then scheduled for final resolution. On behalf of the petitioners, Ms. Vrinda Goyal and Senior Counsel Mr. Kapil Sibal argued that the restrictions were too broad and excessive, failing the proportionality and reasonableness test. They contended that the government's irrational use of Section 144 was motivated by its baseless fear of threats to law and order, which is distinct from public order. The Suspension Rules internet prohibitions also violated procedural standards and were clearly careless because it denied the rights to citizens without putting in place measures that are of least burdensome.

The present case is being represented by Senior Counsels Mr. Huzefa Ahmadi, Mr. Dushyant Dave,

and Ms. Meenakshi Arora who argue on behalf of the intervenors that restrictions must meet Article 19(2) of the Constitution and must also be proportionate as well as necessary. They mentioned how these limitations curtail such essential rights as free speech and information on issues as important as the abrogation of J&K's special status. They also claimed for a balance of citizens' rights and national security measures by citing those limitations exceeding 100 days, which had been assumed to be a time-bound measure, were not warranted and unjustifiable. The petitioners argued that the sensitive circumstances of internal militancy and cross-border terrorism, especially in the wake of Article 370 being abrogated, warranted the restrictions as a measure to check terrorist action. Mr. K.K. Venugopal, attorney general for India, and Mr. Tushar Mehta, solicitor general for Jammu and Kashmir, appeared for the petitioners. They contended that national security matters are beyond the realm of careful judicial scrutiny and that courts should defer to the judgment of officers taking preventive measures.

The respondents emphasized that there was no total internet service ban, which was not restricted in regions such as Jammu and Ladakh, and only in specific regions before the lifting of the ban.

They also argued that the petitioners blew things out of proportion because never at any point was there a total restriction on any individual's movement. Finally, they argued that having different free speech standards for newspapers and the internet is impractical because it prevents selective access to websites or the internet.

#### ISSUES DEALT-

The primary questions in this case were whether Internet access is protected as a fundamental right under Part III of the Indian Constitution, which includes freedom of speech, expression, and the right to hold any kind of business or profession, and whether the government could claim exemption from producing all orders issued under Section 144 of the CrPC and the Suspension Rules.

The case also analyzed whether the government's restriction of internet access and imposition of restrictions under Section 144 of the CrPC violated the petitioner's right to freedom of the press. In order to safeguard and maximize the enjoyment of the right to life and personal liberty, the Honorable Court

stated at the outset that, given the circumstances of this case, its objective is to strike a balance between citizens' rights to liberty and security concerns. The Court left the appropriateness of the orders in question up to "democratic forces to act on."

In deciding one of the issues, the court decided that if the State does not provide the remedy guaranteed by Article 32 of the Constitution and the validity of the orders imposing limits are harder to establish,

It insisted that accountability and transparency are an essential element of democracy and the right to information is part and parcel of Article 19 guaranteeing freedom of speech and expression. The State must notify the citizenry about laws which may curtail some of these freedoms, provided the courts have approved it, except on grounds of overriding public interest in keeping information under wraps. In this case, neither Section 144 CrPC nor the Suspension Rules applied, and the unsubstantiated State claim regarding ambiguous difficulties was deemed insufficient. The Court further reiterated that internet communications fall within Article 19's guarantee of free speech, as the Court acknowledges that it is constitutionally protected yet subject to reasonable restrictions.

While the Court did not rule on whether internet access is a fundamental right, it determined that any restrictions, including total bans, must be determined on a case-by-case basis. The Court acknowledged that terrorists use the internet to raise funds and for propaganda purposes but denied the argument that the need to fight terrorism was a sufficient reason to impose limits because these issues affect daily life in ways that are more than merely law and order issues. It reiterated that the right to freedom of speech, expression, and employment on the Internet is a basic right under Part III of the Constitution. The Court also scrutinized the provisions of the Telegraph Act of 1885, including Section 5(2), which grants suspension of the internet only when there is public emergency or when it is in the interest of public safety.

As no definitions were available, the Court took international instruments, and underscored that such events must be of grave nature, and examined cumulatively. This provided that any order of suspension is fair, proportionate, and that least restrictive method necessary to meet the objective was in accordance with Rule 2(2) of the Suspension

Rules, 2017. The Court accepted the State argument that technological bounds may prevent only selective access blocked into the internet prohibiting it in many places. It also held that it is not acceptable to suspend internet services indefinitely and that the Review Committee should decide how long these shutdowns should last in order to make sure they are not too long. Consequently, the government's decision to ban internet access was declared invalid. Despite the long history of recognition of press freedom in India, the Court held that it was, nonetheless, subject to reasonable limitations. It was not possible for the petitioners to contradict the claim of the state that newspapers were delivered and published during the communication and mobility lockdown, nor could it demonstrate that restrictions limited the possibility of publishing newspapers in the state.

Furthermore, having observed that the petitioner has resumed publication, the Court has only required of the concerned State governments to take measures to respect press freedom. The court had, nonetheless decided to dismiss the petitioner's contentions that the restrictions imposed upon communication and movement in Jammu and Kashmir have directly impacted on the freedom of the press and journalists' ability to perform their work. Hence, it concluded that the restriction imposed did not violate the freedom of the petitioner's press.

Accordingly, the Court held that no order suspending internet access could go on forever, holding sway by the strands of proportionality and reasonableness.

It asked the State to review all such orders suspending internet access but said nothing about the continued shutdown in Kashmir that had been continuing for over five months.

It also enforced the reconstruction of other crucial services like banking, government websites, and healthcare services in case internet reconstruction was not immediately feasible. The judgment set a major legal precedent that the constraints for basic rights, especially the right of freedom of expression, must be appropriate and proportionate. Asserting that arbitrary restrictions on fundamental rights should not be justified by national security considerations, the Court also emphasized people' right to know about government actions. Therefore, in the context of political expression and internet censorship, this issue is especially pertinent. It draws attention to the conflict that exists between the right to free speech

and the state's national security concerns, particularly in the digital age.

Shutting down the internet can be a type of political censorship, restricting what people can access, suppressing political debate, and making it more difficult for people to voice their disapproval. By limiting access to vital information and communication platforms, censorship—particularly through internet shutdowns—directly affects political speech, as the Court's emphasis on the right to information supports. This will hugely impact political action and free speech, because the limitation on digital platforms may quench political discourses, mainly in sensitive politically areas. The judgment has acted as a key point in setting out to elevate the legal principles concerning internet censorship and the preservation of freedom of political expression regarding growing and imminent technological challenges.

## IX. CONCLUSION

The consolidation of findings from this research paper in a structured paradigm based on rationality, we can succinctly articulate that government machineries indeed having an undue influence over the intermediaries and upon the connected users of intermediaries' platform. This dominance of government comes to life, through legislations formulated in such a pattern which primarily steered by the political interests and benefits they want to pursue. This research paper also established the fact that, BJP government ruled states are indulge themselves into the act of promoting hate and violence on the basis of religion to make a social division in the society in order to secure their vote of majority, just to quench their thirst of power. The touts of the government are the real perpetrators who carry words of discrimination and hate on tip of their tongue, which is lowkey conspicuous from the very beginning of tyranny back in the year 2014. The iniquitous politician are the entities who compelled the prudent government officials to misuse the power bestowed on them in order to support the propaganda of hate in the society, in the form of disabling the citizens from their fundamental rights, enshrined under the constitution of India.

Internet shutdown was devised to address the problem of over spreading of crooked and

misguided messages to the wider audience in order to avoid the commencement of atmosphere of destruction, to protect the sovereignty of the state, but because of the unregulated use of it makes it a tool of division and destruction of law and order by the hands of iniquitous politicians.

The pedagogy through which internet shutdown explain itself is, this thing requires a sensible approach for its applicability in order to safeguard the delicacies and fragile corners of the nation from any kind of externalities, thus it becomes very much imperative on part of executives to assess the impact of internet shutdown before its promulgation, including proper scrutiny of the problem and the region of concern, proper notes of possible outcomes to be noted down with their respective pacifying agent and at the end the most imperative thing to be performed by every wings of the democracy, is the use of principles of proportionality in such a manner, that every key element of the said principle blend so neatly which leaves no room for rectification again and the end results concluded with the essence of neutrality and peace.

#### X. SUGGESTIONS AND RECOMMENDATIONS

For decisions pertaining to shutdowns to be made impartially and in the public interest, officials in charge of making these decisions must be shielded from political influence. In a 2013 ruling, the Supreme Court of India stressed the necessity of a set minimum term for state officers, marking a significant step toward accomplishing this. With a set tenure, officials can operate without worrying about political retaliation and are shielded from capricious transfers or terminations. This guarantees that decisions such as communication shutdowns, which have a substantial influence on fundamental rights like freedom of expression and information access, are made responsibly and in accordance with the law rather than political pressure. To supervise transfers, postings, promotions, and disciplinary measures, it is also crucial to establish Civil Services Boards, made up of senior government servants. These boards support a open system by serving as a check on the abuse of administrative authority. These actions support the rule of law and improve administrative effectiveness by shielding officers from outside pressures. They also motivate and

encourage officials to fulfil their legal obligations, making sure that shutdowns are used proportionately, and only as a last resort in cases involving national security or public safety.

In the context of internet shutdowns, the ruling in *Anuradha Bhasin v. Union of India* was a turning point in the recognition of citizens' fundamental rights. In order to avoid arbitrary shutdowns, it placed a strong emphasis on proportionality, necessity, and reasonableness. It also upheld citizens' right to know the reasoning behind such actions and required transparency by publishing government orders. By striking a balance between fundamental rights and national security, the court upheld just and accountable governance.

Though the ruling established a strong basis, its application and the judicial review that followed exposed flaws that require immediate attention. Internet shutdowns persisted despite the court's clarification, frequently without following the guidelines established in the ruling. Transparency and accountability have been undermined by state governments' repeated refusals to comply with the requirement to publish orders and to grant RTI applications seeking information on such decisions. This non-compliance emphasizes how urgently the judiciary must take a more active role in ensuring that its orders are carried out in both letter and spirit.

In order to properly address these shortcomings, judicial activism is now more important than ever. The courts need to take a strong stand against the abuse of general internet service bans, which not only violate citizens' fundamental rights but also have serious negative social and economic effects. The court could have offered more tangible relief in *Anuradha Bhasin* by clearly denouncing the arbitrary nature of prolonged shutdowns and holding governments responsible for their effects, even as it elaborated on the concepts of proportionality and reasonableness. This would have discouraged future unnecessary shutdowns and established a more robust precedent.

Furthermore, the court must immediately examine two crucial issues that were overlooked in the ruling. The first is the acknowledgement that internet access is a fundamental right, which is becoming more and more

important in the digitally connected world of today. Denying someone access to the internet is frequently

equivalent to denying them access to fundamental opportunities, knowledge, and expression. Second, the Telegraph Act of 1885's Suspension Rules must be reviewed for constitutionality to make sure they respect both constitutional protections and contemporary democratic ideals.

It is imperative that the judiciary actively promotes clear legislative guidelines that prohibit the arbitrary use of internet shutdowns in order to create a legal framework that genuinely protects citizens' rights while addressing security concerns. The concepts of accountability and transparency must be strengthened by courts making sure that governments provide substantial evidence to support their decisions. Future judicial intervention will be crucial in ensuring that laws change to protect both individual liberties and public safety as technology advances. By bridging the gap between theoretical ideas and actual enforcement, the judiciary can promote a democratic governance culture that does not compromise fundamental rights for expediency or convenience.

- For Rule 9 of the IT Rules, 2021 to not be applied arbitrarily, judicial oversight of the grievance redressal procedure must be implemented. An independent judicial body must review the decisions made by the Interdepartmental Committee, which is currently made up solely of representatives from executive government agencies like the Ministry of Public Affairs, the Ministry of Information and Broadcasting, and others. Because there is less diversity in the representation, there is a greater chance that executive or political interests will sway decisions, which could result in the arbitrary use of power. Court supervision would guarantee compliance with constitutional norms, especially the protection of free speech and expression provided by Article 19(1)(a).
- To execute a certain piece of task or to solve a problem, it requires different steps to be followed to meet the desired end, and the most efficient means to attain these ends which is widely accepted, is by using the principle of proportionality, including the steps for its decisive implementations.

The first ring of step is to assess the legitimacy of the internet shutdown, which articulates, the government must have reasonable and legitimate grounds for the application of the internet shutdown in the region,

decisions should not be structured on ambiguous ground.

Then comes the second step of proportionality, which talks about the role of suitability of internet shutdown, the executive is required to establish the very fact that shutdown is the only recourse available to solve the intricacies of the problem Infront of them. The internet shutdown must be imposed after the usage of each and every amenable solution through executives can solve the problem pertaining to the subject matter. Thus, proper recodification of the demography should be carried out before taking a harsh step of internet shutdown.

The third step of proportionality decipher about the concept of necessity, the degree of severity of the problem must be evaluated by the executives in order to decide the time period of internet shutdown, in totality necessity of the internet shutdown must be assessed before imposition of a heinous shutdown.

The last sphere step of proportionality gives a brief discourse about on the topic of balance of impact, in case of internet shutdown, the authorities are required to assess the evaluative data of impact caused in the sphere if economics, education, health and business of the area where the internet shutdown is imposed or planning to be imposed against the benefit of shutdown.

This amenable process is also followed by the Canadas' court of law under the name of Oakes test which similarly follows the principle of proportionality as the driving rational behind the articulation of verdict. Thus, in the same manner Indian executive authorities are required to adapt this principle of proportionality before formulating a decision.

The review committee delegated with the work of managing affairs related to internet shutdown attracts improvisations, and these improvisations must consist of making the committee more independent, which means limited or zero intervention of the executives must be done and the committee must take decisions prudently after analyzing the situation rationally and proportionately.

In addition, the Code of Ethics needs to define terms like "public order," "morality," and "decency" precisely to avoid the executive committee's subjective interpretations. Establishing an open appeals process would increase accountability, lower

the possibility of misuse, and promote public confidence by allowing citizens or publishers who feel wronged by the Committee's decisions to challenge them within a set amount of time.

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