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Recent Internet Shutdown in Delhi Revives Debate on Legality, Proportionality and Digital Rights in Democratic Governance

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Recent Developments:

- **Mobile internet services** were temporarily suspended in parts of **Central Delhi** during a protest, reviving debates over the legality and proportionality of internet shutdowns in India.
- The incident renewed concerns regarding compliance with the **Telecommunications Act, 2023**, the **Telecommunications (Temporary Suspension of Services) Rules, 2024**, and the safeguards laid down by the **Supreme Court** in **Anuradha Bhasin v. Union of India (2020)**.
- The issue has also highlighted the need to balance **public order and national security** with **fundamental rights**, transparency, and accountability in a constitutional democracy.

What is an Internet Shutdown?:

Definition and Nature:

- An **internet shutdown** is the deliberate suspension or disruption of internet and electronic communication services, making them inaccessible or substantially unusable for a specified geographical area or population.
- Internet shutdowns may take different forms, including **complete network suspension**, **internet throttling (speed reduction)**, or **blocking specific digital platforms and online services**, depending on the objective and extent of restrictions.
- Such restrictions may be imposed either as a **preventive measure** before an anticipated event or during an ongoing situation involving public disorder, violence, or other security concerns.

Objectives:

- Governments generally impose internet shutdowns to prevent the spread of misinformation, maintain public order, safeguard national security, or control communication during emergencies.
- However, shutdowns imposed merely to manage peaceful protests or public gatherings raise concerns regarding constitutional validity and democratic accountability.

Impact:

- Internet shutdowns disrupt access to verified information, affect journalists, businesses, educational institutions, healthcare services, banking, and digital governance.
- They also weaken transparency, restrict civic participation, and may unintentionally encourage the spread of rumours due to the absence of reliable information.

Global and Indian Scenario:

Global Trends:

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- According to **UNESCO**, state-sponsored internet shutdowns have increased significantly in recent years, affecting access to information and other human rights across multiple countries.
- **Access Now** reported that **2024** witnessed the highest number of internet shutdowns since **2016**, with shutdowns increasingly imposed during elections, protests, and internal conflicts.
- **UNESCO** maintains that universal internet access strengthens freedom of expression, education, association, democratic participation, and inclusive development, and therefore restrictions should remain exceptional and proportionate.

India's Position:

- India continues to record one of the world's highest numbers of internet shutdowns despite possessing one of the largest digital ecosystems.
- According to **Access Now**, **65 internet shutdowns** were recorded across **12 States and Union Territories** during **2025**, while approximately **24 shutdowns** had already been reported during **2026** (up to **22 July**).
- According to the **Software Freedom Law Center (SFLC) Internet Shutdown Tracker**, **Jammu & Kashmir** has recorded the highest number of internet shutdowns since **2012**, followed by **Rajasthan** and **Manipur**.

Legal Framework Governing Internet Shutdowns in India:

Statutory Basis:

- Internet shutdowns are presently governed by the **Telecommunications Act, 2023** and the **Telecommunications (Temporary Suspension of Services) Rules, 2024**, which replaced the earlier **Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017**.
- The Rules regulate temporary suspension of telecommunications services, including internet access, while prescribing procedural safeguards and review mechanisms.

Grounds for Suspension:

- Under **Section 20(2)(b)** of the **Telecommunications Act, 2023**, internet services may be suspended only in cases of **public emergency** or **public safety**, subject to legally specified grounds and written reasons.
- A protest or peaceful demonstration, by itself, does not constitute a lawful ground for suspending internet services.

Authority and Procedure:

- Shutdown orders may be issued by the **Union Home Secretary** or the **State Home Secretary**.
- In unavoidable circumstances, a duly authorised officer not below the rank of **Joint Secretary** may issue the order, but it must receive confirmation within **24 hours**, failing which it automatically ceases to operate.
- Every shutdown order must clearly specify the **reasons, affected geographical area, duration, and time of enforcement**, ensuring transparency and facilitating judicial scrutiny.

Principles Governing Shutdown Orders:

- Every shutdown order must satisfy the principles of **legality, necessity, proportionality, transparency, and procedural fairness**.
- Governments must also examine whether **less restrictive alternatives** can effectively achieve the intended objective before resorting to complete suspension of internet services.

Judicial Review:

- Internet shutdown orders may be challenged before the **High Courts under Article 226** or before the **Supreme Court under Article 32** of the Constitution.

- Constitutional courts examine whether the restriction is lawful, necessary, proportionate, time-bound, and limited to the minimum geographical area required.

Judicial Position on Internet Shutdowns:

Anuradha Bhasin v. Union of India (2020):

- The **Supreme Court** held that access to the internet is closely connected with the exercise of **freedom of speech and expression under Article 19(1)(a)** and the **freedom to practise any profession or carry on trade or business under Article 19(1)(g)**.
- The Court ruled that every internet shutdown must have a **legal basis**, pursue a **legitimate objective**, satisfy the tests of **necessity and proportionality**, and adopt the **least restrictive measure** available.
- The judgment further directed that shutdown orders must contain adequate reasons, be **published**, remain **limited in scope and duration**, and undergo periodic review.
- The Court declared that **indefinite internet shutdowns are impermissible** and directed that every suspension order must be examined by a **Review Committee within five working days**.

Other Important Judicial Developments:

- In **Ashlesh Biradar v. State of West Bengal (2022)**, the **Calcutta High Court** stayed an internet suspension order after observing that it lacked adequate legal authority, sufficient reasons, and consideration of less restrictive alternatives.
- The judgment reaffirmed that executive action affecting digital rights must comply with the principles of **legality, necessity, proportionality, and procedural fairness**.

Major Concerns Associated with Internet Shutdowns:

Impact on Fundamental Rights:

- Internet shutdowns restrict **freedom of speech and expression**, limit access to information, and affect the exercise of several rights linked to **Article 21**, including education, healthcare, livelihood, and personal liberty.

Governance and Transparency Issues:

- Although the **Telecommunications Act, 2023** and the **2024 Rules** prescribe procedural safeguards, concerns remain regarding inadequate publication of shutdown orders, limited public disclosure of review decisions, and insufficient independent oversight.
- Reports indicate that some authorities continue relying upon provisions of the **Indian Telegraph Act, 1885** and the **2017 Rules**, creating uncertainty regarding compliance with the updated legal framework.

Economic and Social Consequences:

- Internet shutdowns adversely affect businesses, digital payments, e-commerce, banking, healthcare, education, emergency services, and communication networks.
- According to international assessments, India suffered an estimated **economic loss of about USD 255.2 million in 2023** due to internet shutdowns, making it one of the countries with the highest economic costs arising from such restrictions.
- Frequent shutdowns also undermine investor confidence and adversely affect India's digital economy and startup ecosystem.

Digital Governance Challenges:

- Frequent internet restrictions appear inconsistent with India's vision of becoming a global leader in **Artificial Intelligence (AI), Digital Public Infrastructure (DPI)**, digital governance, and innovation-driven economic growth.
- Weak implementation of transparency and review requirements continues to raise concerns regarding accountability and protection of digital rights.

Way Forward:

Strengthen Institutional Oversight:

- Independent review mechanisms, stronger parliamentary oversight, and greater judicial scrutiny should ensure that internet shutdowns are imposed only in exceptional circumstances.

Ensure Strict Legal Compliance:

- Authorities should strictly comply with the **Telecommunications Act, 2023** and the **Telecommunications (Temporary Suspension of Services) Rules, 2024**, ensuring that shutdowns are ordered only on the legally recognised grounds of **public emergency** or **public safety**.

Adopt the Least Restrictive Approach:

- Internet shutdowns should remain a **measure of last resort**, limited in duration and geographical scope after carefully evaluating alternative measures.

Promote Targeted Alternatives:

- Governments should increasingly rely on **targeted content moderation, fact-checking systems, misinformation monitoring, platform-specific restrictions, and cybersecurity measures** instead of blanket internet shutdowns.
- Law enforcement agencies should strengthen digital investigation capabilities and improve capacity for managing online risks without unnecessarily restricting public access.

Enhance Transparency and Digital Rights Protection:

- All shutdown orders, supporting reasons, duration, review decisions, and affected areas should be published promptly to strengthen public accountability.
- Digital governance should simultaneously protect **freedom of expression, access to information, privacy, and democratic participation**.

Strengthen Digital Literacy:

- Public awareness programmes should improve digital literacy and misinformation resilience while aligning India's regulatory framework with international best practices on digital rights and open internet principles.

Conclusion:

- Internet shutdowns may be justified only in exceptional situations involving **public emergency** or **public safety**, but they should never become routine administrative tools for managing protests or restricting the free flow of information.
- A constitutional democracy requires every restriction to remain **lawful, transparent, proportionate, time-bound, and subject to effective judicial and administrative review**, thereby maintaining an appropriate balance between national security, public order, and fundamental rights.

Value Addition for UPSC:

Important Constitutional Provisions:

- **Article 19(1)(a):** Freedom of speech and expression.
- **Article 19(1)(g):** Freedom to practise any profession or carry on any occupation, trade, or business.
- **Article 21:** Protection of life and personal liberty.
- **Article 32 and Article 226:** Constitutional remedies before the Supreme Court and High Courts.

Important Supreme Court Principles:

- **Legality:** Every restriction must have statutory backing.
- **Legitimate Aim:** Restrictions must pursue a constitutionally valid objective.
- **Necessity:** Restrictions should be imposed only when genuinely required.
- **Proportionality:** The least restrictive measure should always be preferred.
- **Transparency:** Shutdown orders must be published with recorded reasons.
- **Time Limitation:** Indefinite internet shutdowns are unconstitutional and periodic review is mandatory.

Prelims Facts:

- **Internet shutdowns** are currently governed by the **Telecommunications Act, 2023** and the **Telecommunications (Temporary Suspension of Services) Rules, 2024**.
- **Public emergency** and **public safety** are the only statutory grounds for suspending internet services under **Section 20(2)(b)** of the **Telecommunications Act, 2023**.
- **Anuradha Bhasin v. Union of India (2020)** remains the leading Supreme Court judgment governing the legality of internet shutdowns.
- **Shutdown orders** are subject to judicial review under **Articles 32 and 226** of the Constitution.
- Under the **2024 Rules**, a suspension order **cannot remain in force for more than 15 days**, and every order must undergo review in accordance with the prescribed legal procedure