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Internet ban

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Why is in news? Manipur HC to hear Internet ban today; SC declines to intervene; Should Internet shutdowns be used to maintain public order?

The Manipur High Court directed the Home Department of the Manipur government to lift the ban on providing Internet through Internet Lease Lines (ILLs) throughout the State to facilitate limited access to Internet services for the public, and to consider Fibre To The Home (FTTH) connections on a case-to-case basis, provided the safeguards put on record by an expert committee are complied with.

Internet shutdowns are a means to **wipe out online communication, which directly impacts day to day functioning in an increasingly digital world**, but they also have important and serious knock-on effects on democratic movements, and sometimes provide cover for violence, as reporting crime and making contact for support becomes hard to do.

Internet shutdowns are measures taken by a government or by any entity on behalf of a government, to intentionally disrupt access to and the use of information and communications systems online.

Global Scenario:

The first major internet shutdown that captured global attention took place in Egypt in 2011 and was accompanied by hundreds of arrests and killings.

As many as 12 countries implemented more than 10 shutdowns during that period. Globally, all regions have experienced multiple shutdowns, but the majority reported occurred in Asia and Africa.

As many as 132 of the shutdowns recorded by civil society groups were officially justified by the need to control the spread of hate speech, disinformation, or other forms of content deemed illegal or harmful.

India blocked or disrupted internet connections 106 times and at least 85 of India's internet shutdown episodes were in Jammu & Kashmir.

Almost half of all shutdowns recorded by civil society groups from 2016-2021 were carried out in the context of protests and political crises, with 225 shutdowns recorded during public demonstrations relating to a vast range of social, political or economic grievances.

Between 2016 and 2022, 60% of Internet shutdowns across the world took place in India.

Procedure followed by the government to suspend Internet services:

Before 2017, Internet suspension orders were issued **under section 14 of the CrPC**.

The **Information Technology Act, 2000** maintains that threats to national sovereignty or integrity or defence **call for website blocking**. Accordingly, we have rules setting out safeguards for website blocking.

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In 2017, the central government notified the **Temporary Suspension of Telecom Services (Public Emergency or Public Service) Rules** under the Telegraph Act to govern suspension of Internet.

These Rules **derive their powers from Section 5(2) of the Indian Telegraph Act**, which talks **about interception** of messages in the “**interests of the sovereignty and integrity of India**”.

Despite the 2017 rules, the government has often used the broad powers under **Section 144**.

Section 144: In an unavoidable circumstance, the order can be issued by an officer of the rank of joint secretary or above, authorized by the union or state home secretary.

Section 69(A) of the information technology Act 2008: It gives the government power to block particular websites and not the internet as a whole.

Constitutional provisions and Cases related to internet shutdown:

The High Court of Kerala made a start to the **domestic recognition of the right to Internet access** with its judgment in **Faheema Shirin R.K. v. State of Kerala & Others** which can be replicated pan India

In **Anuradha Bhasin versus the Union of India, 2020**, the Supreme Court ruled that an **undefined restriction of internet services would be illegal** and that orders for internet shutdown must satisfy the tests of necessity and proportionality.

According to the **Anuradha Bhasin judgment**, if you're cutting off somebody's Internet, you have to at least inform them. Often there is no public information about a shutdown.

After this judgment, shutdowns have **only started occurring under the Suspension Rules as opposed to Section 144**, which is a good thing, but there are a lot of guidelines that are not adhered to.

Shutdowns should be **exercised only in situations which require exceptional control and surveillance**.

The Court has said a **shutdown needs to be temporary, limited in scope, lawful and proportionate**.

Article 19 of the Constitution mentions **freedom of speech and freedom to practise any profession**.

Article 21 protects the **right to life and liberty**, which also encompasses the right to education and the right to exercise one's freedom to access the Internet.

Article 92 says that **reasonable restrictions ought to be imposed wherever necessary**. The grounds include a threat to the nation, to national sovereignty, integrity and defence, or to avoid incitement to, or commission of, a cognisable offence.

Reasons for Shutdowns:

Law and order situation, security reasons, communal tension, protests, etc

To ensure peace during a festival procession.

To prevent cheating in exams.

To block the flow of information about government actions or to end communication among activists

To curb uploading, downloading, and circulation of provocative videos, guard against rumour-mongering/fake news, prevent the use of encrypted messaging and coordinating terror activities.

To defeat the nefarious designs from across the border to propagate terrorism.

To prevent the misuse of data services by elements that have the potential to scale up violent activities and disturb public order.

Issues and concerns involved:

Shutdown is a **violation of fundamental rights of Freedom of speech and expression**.

Internet shutdowns can **erode democratic institutions and values**. For example, if citizens are using the internet to mobilize themselves, then shutting down the internet is not different from suppressing dissent.

Does a democratic government have the right to shut down the internet? Is a basic question regarding internet shutdown. After the Gujarat government suspended internet services for almost a week during the Patidar protest in 2015, the matter was taken to the courts.

Internet shutdowns are not particularly effective—people always find other ways to communicate, and studies have shown that such censorship in times of political unrest actually leads to more violent uprisings as the information void fuels uncertainty and causes panic.

The **Internet is pretty much a basic human right**, even if not legally defined as such, for most parts of the world — without access to the virtual world, a very large number of vital human activities simply stop.

In countries that have “medium” Internet penetration — 49% to 79% of the population — a shutdown could dent daily economic activity by \$6.6 million per 10 million people, according to an analysis by Deloitte, quoted in The New York Times article.

Between July 2015 to June 2016, Internet shutdowns caused global losses of more than \$2.4 billion, according to an analysis by The Brookings Institution quoted in the same article.

Over the past five years, some 16,000 hours of Internet shutdowns cost the economy a little over \$3 billion, according to estimates in a report by the Indian Council for Research on International Economic Relations (ICRIER).

Cutting off communication in itself is an enormous public safety risk. Citizens are left without access to information about emergency services like the volunteer-built solutions like chennairains.org.

Because internet shutdowns **affect every section of society** – especially those who need it the most. And these restrictions, targeting the ‘common people’, are becoming increasingly ‘common’.

Way forward:

International organizations, such as the United Nations, can put **pressure on governments that engage in internet shutdowns to respect human rights** and ensure that the internet remains open and accessible.

Governments can pass laws and regulations that protect citizens' rights to access the internet and prevent arbitrary shutdowns.

Technological solutions such as mesh networks and satellite communication can be used to provide alternative means of internet access when the internet is shut down.

Perhaps the solution can be found in **renegotiating our law enforcement approaches** in keeping with the changing times and technologies.

Police and government agencies could increase their presence online so that they can actively fight back against rumour-mongering.

Empowering local law enforcement so they can tackle tensions without shutting the Internet down.

The **solution to internet misuse is to build stronger laws** for data privacy and protection. Stopping access to internet services altogether is definitely not the solution.