

You can **ban Internet**  
but **not Thoughts**  
**#InternetShutdown**

India shut down internet 31 times in 2016-  
the highest in the world. India ordered  
75 shutdowns since 2012: @SFLCin  
**#JournosAgainstShutdowns**

# SHRINKING SPACES

## STATUS OF FREEDOM OF ASSOCIATION & ASSEMBLY IN INDIA

- Ritu Srivastava

126 DAYS OF NO  
MOBILE INTERNET  
IN KASHMIR.  
Dear Modiji  
how on earth  
are we supposed  
to go cashless?

This will be the 2nd  
**#InternetShutDown**  
in **#Gujarat** to prevent  
cheating in exams;  
will be 24th  
**#Internetshutdown**  
in 2016 in India  
**#KeepItOn**

*So internet services  
will be banned for  
Imphal East too. we  
are still in the loop for  
now, perhaps because  
of Sunday?*

More  
Mobile **#InternetShutdown**  
**in entire Nagaland** due to  
clashes b/w locals & police  
on the issue of civic polls  
**#KeepItOn**

**4 DAYS NO NET.**  
I charged my phone twice.  
8 hrs since net restored,  
I charged my phone twice.  
**#KASHMIRPOLLS**  
**#INTERNETSHUTDOWN**

This is the 4th **#InternetShutdown** in  
4 days. Internet is supposed to be a  
right, but is turning into a luxury.

**#LetTheNetWork**  
**#KeepItOn**

**#Internetshutdown** is breach  
of **#humanrights** & should be  
monitored showcasing the  
current status of **#HR**  
No access means no **#FoE**  
**#Keepiton**

India **shut down internet 31 times**  
**in 2016**- the highest in the world.  
India ordered **75 shutdowns**  
since 2012: @SFLCin

Mobile internet networks jammed  
due to a minor communal  
outburst in neighbouring districts.  
**#internetshutdown**

**#JournosAgainstShutdowns**





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# **SHRINKING SPACES**

## **STATUS OF FREEDOM OF ASSOCIATION & ASSEMBLY IN INDIA**

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**-Ritu Srivastava**

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The insights that this report presents with respect to on the ground realities in India could not have been possible without their commitment. This is not claim on the authenticity of facts and figures mentioned in the book. It is hereby declared that nobody from editors, researchers and publishers will be responsible for any error. Therefore, readers may excuse and forgive any errors and mistakes that may have occurred unintentionally.

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# ACKNOWLEDGEMENT

Unlike any other medium, the Internet and digital tools enable one to practise the freedom of expression, association and assembly, and the right to access information. It enables interactive communication, allowing one to send information and communicate smoothly. It also enables citizens to exercise their rights freely, be it freedom of expression, access to information or freedom of association and assembly.

India is a country of paradox. In the era of information revolution, India is ranked among the top five contributors of people who are online — whether it be on mobile or social media; On the other hand, more than 80 per cent of the population does not have access to the Internet, and more than 70 per cent of women in rural India do not have access to mobile phones. According to the World Bank's World Development Report 2016: Digital Dividends<sup>1</sup>, about 1.063 billion of the Indian population is offline. India has a long way to go to become a country with a comprehensively online population and to be part of the global information society.

Having said that India is experiencing a new wave of development and innovation in the online world. The online world is not the same as the offline one, and because of this there are social, cultural, and regulatory challenges that need to be addressed. Issues surrounding monitoring, privacy, surveillance, and governance challenges have become an integral part of freedom of expression. As a result of this, citizens' freedom to associate and assemble freely has been affected and hindered.

Since Digital Empowerment Foundation (DEF) stands at the intersection of information exchange, information poverty, information economy, and access to information, it has partnered with the Association for Progressive Communication (APC) and started working in the areas of Internet governance and Internet rights. In 2014, DEF, together with APC and support from the European Union, started exploring issues of human rights violations online and offline, particularly in relation to the right to information, right to freedom of expression, right to freedom of association and assembly.

This country report, '*Shrinking Spaces: Status of Freedom of Association & Assembly in India*' is the foundation upon which DEF is engaging with stakeholders to build capacities to support and strengthen human rights online and build institutional linkages so that all stakeholders can bring about systemic changes across India with respect to freedom of expression, freedom of association and freedom of assembly.

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1. World Development Report, "Digital Dividends" [http://www-wds.worldbank.org/external/default/WDSPContentServer/WDSP/IB/2016/01/13/090224b08405ea05/2\\_0/Rendered/PDF/World0developm0000digital0dividends.pdf](http://www-wds.worldbank.org/external/default/WDSPContentServer/WDSP/IB/2016/01/13/090224b08405ea05/2_0/Rendered/PDF/World0developm0000digital0dividends.pdf)

The research report has adopted a framework suggested in the regional research report, *'Freedom of Assembly and Association Online in India, Malaysia and Pakistan: Trends, Challenges and Recommendations'*, funded under APC-IMPACT project. The report further analyses India's position and its alignment with international mechanisms and standards with respect to freedom of expression, freedom of association and freedom of assembly. It also identifies how state and non-state actors are hindering citizens' right to freedom of association and assembly, gaps and challenges, and sets out recommendations to improve freedom of association and assembly in the country. This report attempts to examine the constitutional and policy frameworks in India and international human rights mechanisms as they relate to various aspects of freedom of association and assembly online—such as virtual curfews, online censorship, restrictions on civil society, hacking and anonymous attacks, and cyber bullying.

I thank my colleague Ritu Srivastava, for demonstrating genuine and sincere commitment to democracy and human rights by studying freedom of association and freedom of assembly in the online sphere while questioning and diving deep into India's socio-cultural norms to understand how people express themselves online. I must also acknowledge my colleagues Rajat Kumar, Raina Aggarwal and Bijo P. Abraham in supporting Ritu for this report; and Harsh Mander for reviewing and giving valuable guidance support to the team. My gratitude is extended to all stakeholders who have shared their valuable opinion on this report.

This report has been made, designed, and printed with much care and focus. However, readers may excuse and forgive any errors and mistakes that may have occurred unintentionally.

Wishing you a thought-provoking reading!

Sincerely,



Osama Manzar  
Founder & Director  
Digital Empowerment Foundation  
osamamanzar@defindia.net

# GLOSSARY

1. All India Bakchod (**AIB**)
2. Association of South East Asian Nations (**ASEAN**)
3. African Union (**AU**)
4. Council of Europe (**COE**)
5. Code of Criminal Procedure (**CrPC**)
6. Department of Electronics and Information Technology (**DeitY**)
7. United Nations Economic and Social Council (**ECOSOC**)
8. Freedom of Assembly and of Association (**FoAA**)
9. Foreign Contribution Regulation Act (**FCRA**)
10. International Covenant on Civil and Political Rights (**ICCPR**)
11. International Covenant of Economic, Social and Cultural Rights (**ICESCR**)
12. International Labour Organisation (**ILO**)
13. Internet Service Providers (**ISP**)
14. Human Rights Defenders (**HRDs**)
15. Mahiti Adhikar Gujarat Pahal (**MAGP**)
16. National Human Rights Institutions (**NHRIs**)
17. Organisation of American States (**OAS**)
18. Office of the United Nations High Commissioner of Human Rights (**OCHR**)
19. South Asian Forum for Human Rights (**SAFHR**)
20. Universal Declaration of Human Rights (**UDHR**)
21. United Nations Human Rights Council (**UNHRC**)

# INTRODUCTION

The Internet is often perceived as an ally of human rights. Mobile phones and cellular technology enable people to connect with other likeminded people and groups. The Internet has become an integral part of our economic, social, and cultural lives, changing the way we communicate with others, bringing education to our homes, creating new jobs, creating a space where people can raise their voices and opinions, and sharing and receiving information. The content of the Internet is continuously widening, covering more aspects of social and political life, which has had a great democratising effect.

Access to the Internet becomes crucial for people living under authoritarian regimes, where the media is under State control and citizens are unable to air dissenting views on their State authorities. Due to its global characteristics, the Internet has the potential to enable citizens of authoritarian States to air dissent and potentially enables them to bring about aspirations of democratic change. Development of new technologies not only provides quick access to information, but also enables citizens to create new alternative sources of information. For example, through blogs or social networking sites. In some cases, self-publishing tools are the only source of information, such as in the case of the Buddhist monks' demonstration in Burma during the Saffron Revolution<sup>2</sup> in September 2007. In this particular instance, the military regime isolated the country and citizens from international gaze leaving local bloggers to share powerful images of the country taken on their mobile phones.

Freedom of assembly and association has played a significant role in democratic transformations that have taken place in the past several decades, including those in the Philippines, Ukraine, Serbia, and South Africa. Today, exercising the freedom of assembly and of association (FoAA) goes beyond physical spaces. The Internet has created opportunities to communicate, associate and assemble beyond a country's geographic boundaries. These days, exercising FoAA in an online space (for example blogging, posting on social media platforms or organising online events) influences offline behaviour to a palpable extent. Exercising FoAA hinges very strongly on the exercise of the freedom of expression, since the Internet and social media platforms depend on communication. The freedom of expression and its protection becomes paramount to the free exercise of FoAA.

In 2011, the Internet and social media platforms like Facebook, Twitter, and YouTube played a significant role in organising online protests and conducting political campaigns against authoritarian regimes in Egypt and some other Middle Eastern and North African countries in what has come to be known as the Arab Spring.

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2. Saffron Revolution in Burma; <http://burmacampaign.org.uk/about-burma/2007-uprising-in-burma/>

Freedom of Assembly and Association (FOAA) online refers to the exercise of civil and political rights in peaceful assembly and association enhanced by the use of Information and Communication Technologies (Gayathry Venkiteswaran). The United Nations Human Rights Council (UNHRC) reaffirmed its commitment to promote and protect the right to freedom of peaceful assembly and stated that “*State have the obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline*” by adopting resolution 21/16 (October 2012) and resolution 24/5 (October 2013)<sup>3</sup>.

Special Rapporteur on Freedom of Assembly and Association, Maina Kiai also reaffirmed and recognised the Internet as a platform to exercise freedom of assembly in his report<sup>4</sup>. Since 2000, there have been initiatives to improve international human rights standards and practices in relation to FoAA online. The right to freedom of peaceful assembly and association is enshrined in the universal legal instruments for the protection of civil and political rights, namely, in Article 20 of the Universal Declaration on Human Rights (UDHR), and Articles 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR).

However, the regular monitoring and surveillance of content, increasing government regulation and surveillance, manipulation and blocking of Internet content, and network and communication shutdowns restrict citizens’ ability to exercise their right to freedom of expression and speech and ability to associate and assemble.

According to Freedom House Report 2016<sup>5</sup>, rights to freedom of peaceful assembly and association is declining, repressive governments are increasing restrictions on these rights and, in doing so, such governments are violating international human rights standards. These government restrictions are seen as responses to movements elsewhere in the world, which were triggered through (political) associations.

There have been initiatives to improve international human rights standards and practices in relation to FoAA online. For example – the European Court of Human Rights stated that “*the notions of assembly and association are autonomous and they are not defined or constrained by whatever understanding that member states have in their national laws about these notion*”<sup>6</sup>. The Council of Europe (COE) has developed policy guidelines on

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3. Special Rapporteur on the rights to freedom of peaceful assembly and of association. Accessed on 26/02/2016. See more at <http://www.ohchr.org/EN/Issues/AssemblyAssociation/Pages/SRFreedomAssemblyAssociationIndex.aspx>

4. Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies (March 2016 A/HRC/31/66)

5. Freedom House Report, “Freedom in the World 2016”, [https://freedomhouse.org/sites/default/files/FH\\_FITW\\_Report\\_2016.pdf](https://freedomhouse.org/sites/default/files/FH_FITW_Report_2016.pdf)

6. The right to protest online; <https://www.apc.org/en/blog/igf-2015-right-protest-online>

Internet freedom and recommends all the 47 member states to evaluate themselves on the state of Internet freedom. For this purpose, the COE has developed indicators to help member states carry out the evaluation, and used the principles that the European Court of Human Rights has established in non-Internet cases but which can be applicable to all online-related cases<sup>7</sup>.

The regional research paper, *Freedom of Assembly and Association Online in India, Malaysia and Pakistan: Trends, Challenges and Recommendations*<sup>8</sup> points out that there have been limited practices to exercise the freedom of assembly and association in India or in the region. Based on the recommendations in the regional research paper, a national research report, *Shrinking Spaces: The Status of Freedom of Assembly & Association in India* identifies the existing gaps with respect to law and policy.

This research report tries to establish the relationship between the freedom of association and assembly offline and online, and analyses how they intersect and influence each other. It further identifies legal challenges, laws, policies, and the manner in which state and non-state actors regulate Internet rather than following inherent principles of free and open Internet to bring equal freedoms in all forms — expression, speech, association and assembly. This report explores and analyses India's position on various freedoms and governance mechanisms to understand how it affects the freedom of association and assembly online.

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7. Ibid

8. Regional Research Report, "Freedom of assembly and association online in India, Malaysia and Pakistan Trends, challenges and recommendations"; <https://www.apc.org/en/pubs/freedom-assembly-and-association-online-india-mala>

# RESEARCH OBJECTIVES

The purpose of the research paper is to assess freedom of assembly and association online in India. The key objectives of the research paper are:

1. To define FoAA online within the constitutional and legal frameworks of India, specifically looking at regulation and restrictions placed on the practice of FoAA
2. To map in practice any attempts by governments to restrict or regulate FoAA online, and to examine whether these are in accordance with the letter and spirit of the Constitution and law for FoAA offline and online, and with the broader spirit of democracy, human rights, and social justice in India
3. To identify how FoAA and reasonable restrictions to freedom of assembly and association offline in the Indian constitution and law can be applied to the online world
4. To identify trends regarding FoAA practices online as well as the intersection of offline and online practices in India
5. To make recommendations to improve India's compliance with international human rights standards and practices that will further protect FoAA online in law, policy, and practice in India

# RESEARCH METHODOLOGY

## A. Literature Review

This section analyses the literature available on freedom of association and assembly, both internationally and locally. The research draws upon the recommendations made by UN Special Rapporteurs, intergovernmental bodies, National Human Rights Institutions (NHRIs), and international and national civil society groups, including regional research papers, briefing papers, and submissions by APC on FoAA. The research further attempts to look at some of the legal precedents in the exercise of freedom of association, assembly, and freedom of expression where relevant in the context of online mobilisation and expression. The research also refers to NGO, academic, and media reports as sources for incidents, government/official responses, and analysis of trends.

## B. Case Studies

To make the research paper more informative, case studies have been incorporated to highlight FoAA online practices in India. The case studies throw light on the positive and negative impacts of exercising rights online. The case-studies help explore the theoretical concept of FoAA and what it translates to on the ground in India. These case-studies have primarily covered three broad categories –

- i) Censorship, blocking and intercepting Internet and communication technology, thus impacting the right to exercise FoAA;
- ii) How offline FoAA transforms online FoAA gathering/activism and vice-versa
- iii) How the Internet has been used by individuals or groups to exercise FoAA.

## C. Key Informant Interviews

Key informant interview technique has also been employed in this research. This has helped gain information on practices and experiences over a wider spectrum to assess how groups or individuals are affected differently. For this purpose, feedback has been gained from the following groups of people:

1. Legal experts who could assist in providing interpretations to laws related to FoAA online and who have filed PILs (public interest litigations) for such cases
2. Technology experts who could help explain issues like digital security breaches, use of tools for surveillance or filtering, and incidents of online protests
3. Activists and human rights defenders who have used technology to practice FoAA, or defended the rights of others
4. Individuals who participated in FoAA online and could explain their motivations, fears, concerns, and strategies adopted to counter threats.

These interviews have been conducted to obtain inputs on trends and events, verify information, provide interpretations to statutes or judgments, and to understand motivations. The aim of the questionnaire sent to the targeted list of respondents was to establish how individuals and groups use the Internet to exercise their FoAA rights; understand if — and how — the use of online spaces have enhanced those rights and provided opportunities for engagement and advocacy, to identify the challenges and threats faced.

# SECTION I: DEFINING FREEDOM OF ASSEMBLY AND ASSOCIATION

The right to peaceful assembly and association are fundamental rights of human beings and has been an integral part of the global fundamental rights regime. The right itself is an enabler of citizens' political participation in democratic governance. Freedom of assembly and association is defined as the freedom of people to assemble and or associate for a cause or any purpose. Foster has defined human rights and civil liberties as basic individual rights; it can be claimed by an individual or group of individuals (Foster 2003:8). Human Rights Education Associates (HREA)<sup>9</sup> defines thatt freedom of association as the right to form groups to organise and to assemble together with the aim of addressing issues of common concern. Freedom of assembly and association are often used interchangeably. They are also often linked with freedom of expression and freedom of information. Both rights enable people to come together to express, associate and assemble freely and defend common interest (McBride). By this definition (McBride 2005: 18-9), the freedom of assembly is more closely related to the right to demonstrate and gather in public spheres, while freedom of association deals with forming groups or defining institutionalisation mechanisms within them. It is imperative that both rights correlate with freedom of expression and freedom to information as they are built on it. These rights cannot be exercised if the right to freedom of expression is not implemented. The freedom to assemble and associate freely depends on individuals being allowed to express their views even if they are in opposition to the ruling authorities, views.

Professor Tonia Novitz of the University of Bristol has defined the freedom of association as the 'first generation' right of civil liberty and political right underpinning labour laws under the International Labour Organisation (Novitz); Foster 2003:8). The Commonwealth Secretariat 2003 forum on, Best Practice: Freedom of Expression, Association and Assembly<sup>10</sup>, noted that the freedom of assembly is mostly understood as the right to form or join trade unions. This shows that this particular right is much broader and more open-ended in nature than others as it allows association for ideological, religious,

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9. Human Rights Education Associates (HREA); <http://www.hrea.org/about-us/>

10. Commonwealth Secretariat 2003. Best Practice: Freedom of Expression, Association and Assembly. Human Rights Unit. London; <https://books.thecommonwealth.org/freedom-expression-association-and-assembly-paperback>

political, economic, social, and cultural purposes. Therefore, the right to form political parties also falls under freedom to assembly. Freedom of association provides specific provisions for certain groups such as children, environmental campaigners, human rights defenders, judges, minorities, and migrant workers (McBrid 2005: 18-9).

International and regional human rights standards affirm, recognise and protect the right to freedom of association so that organisations can “*function freely and without undue interference*”. However, they also keep some limitations and restrictions to that freedom. Foster (2003:105) defines “freedom of association” as a conditional right. These limitations and restrictions are permitted on the grounds of national security, public safety or public order, protection of public health or morals or the protection of the rights and freedoms of others, prevention of disorder or crime, and are legitimate if they are imposed by law, based on prescribed grounds, and necessary in a democratic society. Violence is one thing that affects national security, public safety, public order, public health services as well as other rights.

## FoAA Online

In terms of the intersection of online and offline human rights mechanisms, a number of attempts have been made to map debates around Internet and human rights related issues. The Working Groups on Internet Governance in 2004 highlighted and located issues that fall under the ambit of Internet-related human rights, public policy issues, development, and democratic participation. It suggested looking at the overall interface between the Internet and rights; and developing a relationship between the Internet and freedom of expression, and freedom of assembly and association.

As already noted, calls have been made to recognise and protect the right to freedom of assembly and association online, without actual elaboration of what such online rights entail. Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Maina Kiai noted in his 2012 thematic report the increased use of the Internet, in particular social media and other information and communication technologies as basic tools that enable individuals to organise peaceful assemblies<sup>11</sup>. The definition of Freedom of assembly and association (FoAA) online follows the same parameters of FoAA offline, if it is applicable in an online space.

It has been noted that offline rights are developed within international human rights instruments while online rights are still evolving. These rights are enabled or enhanced using new technologies and the Internet. There are various examples of groups and individuals who have used the Internet and other digital technologies to come together for specific issues, raise their voices and conduct campaigns to mobilise others. A growing number of activists and human rights defenders are using blogs and social media

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11. A/HRC/17/27, para 4; [http://freeassembly.net/wp-content/uploads/2013/10/A-HRC-20-27\\_en-annual-report-May-2012.pdf](http://freeassembly.net/wp-content/uploads/2013/10/A-HRC-20-27_en-annual-report-May-2012.pdf)

networks to reach out to a wider audience. The ‘Right to Protest Online’ or ‘Hacktivism<sup>12</sup>’ is another form of FoAA making use of online petitions and online protests by human rights defenders. Protests are no longer limited to assemblies and gatherings in physical spaces but are increasingly taking place, in whole or in part “online”. There is an increased use of digital technologies as a medium of protests and the Internet as a venue of or platform for protests.

Globally, there is no specific definition of FoAA online but it has been referred to rights of persons to express and share their opinions and engage with others’ activities related to economic, social, and cultural rights. The research study, *Freedom of Assembly and Association Online in India, Malaysia and Pakistan: Trends, Challenges and Recommendations*’ by Gayathry Venkiteswaran states, “FoAA online to peoples’ use of ICTs to exercise their rights to assembly and association, either offline or online. While the offline rights are well developed within international human rights instruments, the online rights are still evolving<sup>13</sup>”. It identifies association as an ad hoc cause or issue that could continue over a long term. It also defines acts of peaceful assembly online to an intentional and temporary gathering in a private or public space for specific purpose that include the acts of coordinating, organising, gathering, planning or meeting on online platforms such as instant messaging, Voice over Internet Protocol (VoIP), chat applications, email groups and mailing lists among others<sup>14</sup>.

Right to Information activist Pankti Jog defines FoAA online as, “*an intersection of online and offline activities in today’s age. One cannot consider getting associated or assembling in isolation*”. She also recognises social media as an important tool to exercise freedom of assembly and freedom of association and one that enables anonymity to exercise the rights.

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12. According to ARTICLE 19, “hacktivism is defined as a collective action of technologically skilled individuals through the use of digital technologies to protest without gathering in person. Most are considered a form of electronic civil disobedience due to related violation of the law. The organisation argues that international law allows for consideration of these actions as forms of freedom of expression and assembly; <https://right-to-protest.org/wp-content/uploads/2015/06/Right-to-Protest-Background-paper-EN.pdf>

13. Gayathry Venkiteswaran Report, *Freedom of assembly and association online in India, Malaysia and Pakistan: Trends, challenges and recommendations*; [https://www.apc.org/en/system/files/FOAA\\_online\\_IndiaMalaysiaPakistan.pdf](https://www.apc.org/en/system/files/FOAA_online_IndiaMalaysiaPakistan.pdf)

14. iBid

# SECTION II: LEGAL FRAMEWORK:

## A. International Human Rights Mechanisms

Following the atrocities of the Second World War, the world witnessed unparalleled development in international human rights law. New legal regimes, which have the protection of individuals at their core and aim to limit the traditionally exclusive jurisdiction of States over their citizens, emerged. These developments have unfolded at international, regional, and national levels. Internationally, there are three major institutions that recognise freedom of association and assembly as a fundamental right.

The United Nations Charter (United Nations, 1945) declares the ‘promotion and protection’ of human rights as one of the goals of the United Nations. Following it, the Universal Declaration of Human Rights (UDHR) (United Nations, 1948), International Covenant on Civil and Political Rights (ICCPR) (United Nations, 1966), and International Covenant of Economic, Social and Cultural Rights (ICESCR) (United Nations, 1966) were developed. The UDHR, ICCPR, and ICESCR are collectively known as the International Bill of Rights (Office of the UN High Commissioner of Human Rights).

Article 20(1) of the UDHR states, “...everyone has the right to freedom of peaceful assembly and association<sup>15</sup>”. While the sub-section of the same Article states, “No one may be compelled to belong to an association.”

Article 21 under ICCPR recognises the “right to peaceful assembly” while Article 22 protects “freedom of association<sup>16</sup>”. The core system of human rights at the international level has evolved under the United Nations (UN) and the UN Economic and Social Council (ECOSOC). The latter set up the UN Commission on Human Rights under the mandate of Article 68 of the United Nations Charter (United Nations, 1945), until it was replaced by the UN Human Rights Council by Resolution 60/251 in 2006 (United Nations, 2006).

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15. Article 19, The Universal Declaration of Human Rights (UDHR), Article 20, <http://www.un.org/en/documents/udhr>

16. Article 22; The International Covenant on Civil and Political Rights (ICCPR); [www2.ohchr.org/english/law/ccpr.htm](http://www2.ohchr.org/english/law/ccpr.htm)

The International Labour Organisation (ILO) adopted Convention 87 concerning Freedom of Association and Protection of the Right to Organise in July 1948 (International Labour Organisation, 1948), a few months before the adoption of the UDHR in December.

Convention 87 elaborated on the right to freedom of peaceful assembly and association. However, keeping in line with the intention of the ILO, its focus was specifically to protect the workers in all signatory countries. Of the four parts and 21 Articles of Convention 87, two parts and 11 Articles directly apply to the freedom of association and to the protection of the right to organise.

The ICCPR elaborates on the freedom of association and assembly in Articles 21 and 22. Article 21 specifically deals with freedom of assembly; stating:

*“The right of peaceful assembly shall be recognised. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.”*

Article 22 (1) guarantees the right to association for all peoples, which differentiates it from ILO Convention 87, which explicitly guaranteed the right to association only to workers.

The ICESCR is similar to ILO Convention 87 in its extending the right to association and peaceful protest to workers in signatory countries. Article 8(1)(a) guarantees the right to form trade unions. It reads:

*“The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organisation concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others.”*

Article 8(1)(d) of the ICESCR guarantees the right to peaceful protest, reading:

*“The right to strike provided that it is exercised in conformity with the laws of the particular country.”*

Article 4 of the ICCPR allows for derogation from the Articles of the Covenant based on a certain criteria:

1. In the time of public emergency, which threatens the life of the nation
2. Non-derogation from certain clauses namely Article 6 – right to life; Article 7 – freedom from torture; Article 8 – freedom from slavery and servitude

3. Additional non-derogation requirements are based in Article 11, 15, 16, and 18
4. The State must make the announcement of the derogation to the Secretary-General of the UN along with reasons for the suspension and the termination date of the derogations

It is interesting to note that the FoAA is not under the non-derogation requirements, i.e., it can be suspended if the State sees fit and can justify it as per the requirements of Article 4 of the Covenant. At the regional level, there are three main human rights regimes:

- a. The Organisation of American States (OAS), which was created in 1948 to promote regional peace, security and development in the region (Organisation of American States, 1948)
- b. The Council of Europe, which was created in 1949, to promote human rights the rule of law in post-Second World War Europe (Council of Europe, 1949)
- c. The Organisation for African Unity was created in 1963 (Organisation for African Unity, 1963), disbanded in 2002, and transformed into the African Union by the Sirte Declaration (Organisation for African Unity, 1999)

## Special Rapporteur on Freedom of Peaceful Assembly and Association

The Special Rapporteur on Freedom of Peaceful Assembly and of Association, Mania Kiai recognises the Internet as an intermediary platform to exercise FoAA. In a report, he asked member states “*to recognise that the rights to freedom of peaceful assembly and of association can be exercised through new technologies, including through the Internet*<sup>17</sup>.”

In one of the general recommendations, the Special Rapporteur noted that the word ‘association’ may also refer to online associations<sup>18</sup>. Kiai defined it as –

*“Association refers, inter alia, to civil society organisations, clubs, cooperatives, NGOs, religious associations, political parties, trade unions, foundations or even online associations as the Internet has been instrumental, for instance, in “facilitating active citizen participation in building democratic societies.”*

He also noted “*The increased use of the Internet, in particular social media and other information and communication technology, as basic tools which enable individuals to organise peaceful assemblies. However, some States have clamped down on these tools to*

17. Kiai Report of the Special Rapporteur, para 84(4).

18. Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai; [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf)

*deter or prevent citizens from exercising their right*<sup>19</sup>. He also noted, “Internet as a tool, which can be used by the states for simplifying notification system<sup>20</sup>.”

He underlines that freedom of assembly and freedom of association are interrelated, interdependent, and mutually reinforcing; however they are two separate rights and are governed by different laws<sup>21</sup>.

In his recent report, he has stated that ‘Internet access’ needs to be maintained to provide freedom of assembly and freedom of association<sup>22</sup>. In this report, he claims that the Internet is an important tool to provide information and maintain democracy. He states, “Notification systems must not be overly bureaucratic. Measures to simplify the notification process may include: multiple lodgment points, including outside of urban areas, and in-person and assisted lodgment; the use of forms that are easily accessible, concise and available in a variety of languages. Where Internet penetration is high, authorities should consider using online lodgment systems.”

Frank La Rue, Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, also recommended that all States should “ensure that Internet access is maintained at all times, including during times of political unrest<sup>23</sup>.”

Figure 1 depicts India’s position in the global context with respect to the ratification of International Human Rights Treaties. India has ratified UDHR and ICCPR — except the few optional protocols (I & II)<sup>24</sup> and ratified ICESCR with reservations. India has not signed the Freedom of Association and Protection of the Right to Organise Convention.<sup>25</sup>

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19. Ibid, para 32

20. A/HRC/31/66 (Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies)

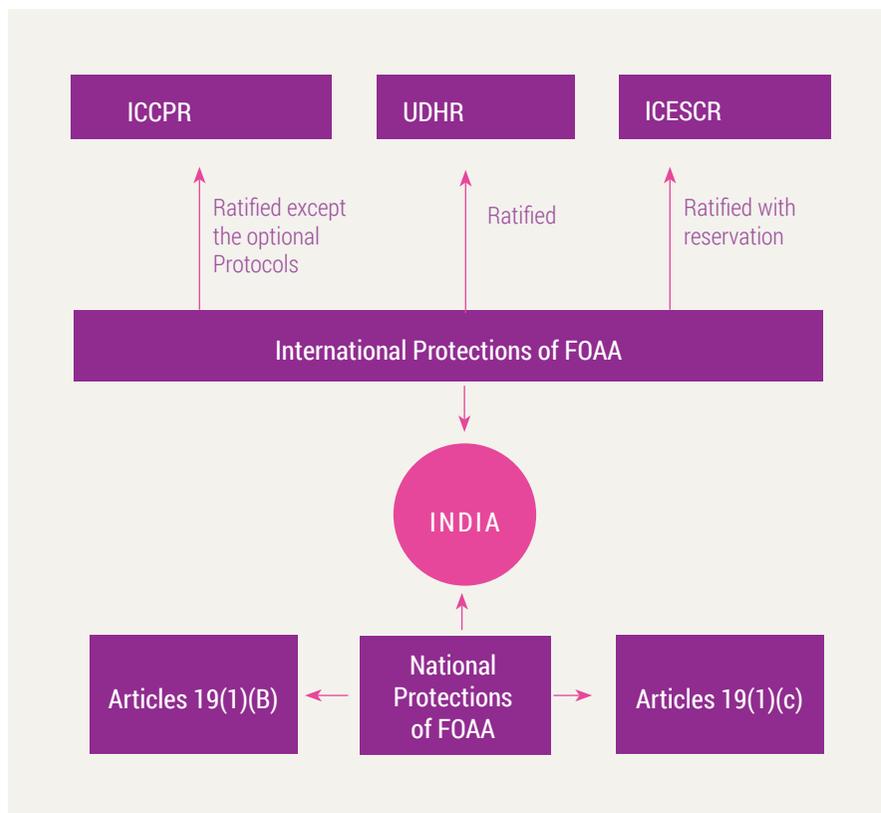
21. A/HRC/20/27; Para 4; Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai; [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf)

22. A/HRC/31/66; Para 17; A/HRC/31/66 Para 17; Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies

23. A/ HRC/17/27, 16 May 2011, para 79; Frank La Rue Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression Human Rights Council; [www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27\\_en.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf)

24. Core International Human Rights Treaties, Optional Protocols & Core ILO Conventions Ratified by India [http://nhrc.nic.in/documents/india\\_ratification\\_status.pdf](http://nhrc.nic.in/documents/india_ratification_status.pdf)

25. Human Rights Library, University of Minnesota; Ratification of International Human Rights Treaties – India; <https://www1.umn.edu/humanrts/research/ratification-india.html>



**Figure 1:** India's relation with global context on ratification of International Human Rights Treaties

## B. Asia Pacific Human Rights Mechanism

Regionally, in Asia Pacific, there are no regional human rights legal instrument, court, or body such as a commission. United Nations and other international, regional and national organisations have been raising serious and critical concerns on the human rights violations in South Asian countries that include incidents of disappearances, extra-judicial killings, impunity, suppression of freedom of expression, freedom of assembly, freedom of association, and attacks against the human rights defenders (HRDs), civil society advocates, and media personnel. Similarly, the human rights mechanisms, including the UN Office of the High Commissioner for Human Rights (OHCHR), have made a number of recommendations to improve the human rights situation in South Asia. The overall ratification of human rights treaties and their implementation is not

satisfactory in South Asian countries.

## **South Asian Association for Regional Cooperation (SAARC)**

Established in 1985, the South Asian Association for Regional Cooperation (SAARC) seeks to promote peace and stability in the region through strict adherence to the principles laid out in the Charter of the United Nations and the Non-Aligned Movement. Given that the UN Charter has been the basis for the evolution of several instruments on human rights, SAARC has also taken some important steps in the right direction. Key instruments and initiatives of SAARC include<sup>26</sup> :

- Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002
- Convention on the Promotion of Child Welfare in South Asia, 2002
- Social Charter, 2004
- Charter on Democracy, 2011
- Initiatives relating to climate change, health, food security, mutual assistance on criminal matters, combating terrorism and drugs

## **ASEAN Intergovernmental Commission on Human Rights (AICHR)**

The Association of South East Asian Nations (ASEAN) countries have been successful to establish ASEAN Inter-Governmental Commission on Human Rights (AICHR) through the ASEAN Charter, followed by long efforts of the human rights defenders. However, there is no regional human rights mechanism in South Asia, except the emerging National Human Rights Institutions (NHRIs) that have gaps in their capacity to work for human rights issues beyond the national level. Therefore, concerted and consistent efforts are necessary from civil society organisations and key stakeholders for the establishment of regional and sub-regional institutions and mechanisms for the promotion and protection of human rights in South Asia.

## **Civil Society Initiatives**

Apart from inter-governmental human rights mechanisms, a number of human rights organisations and civil society organisations from South Asia have taken various initiatives for the regional human rights mechanism with the aim to address key human rights problems in the region through transnational cooperation and coordination under SAARC. South Asians for human rights (SAHR), South Asian Forum for Human Rights (SAFHR), Peoples' SAARC and FORUM-ASIA are some of the organisations and networks that have directly or indirectly been pushing for human rights mechanisms in South Asia.

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26. SAARC Convention on Regional Arrangement for the promotion of child welfare in South Asia; <http://www.saarc-sec.org/userfiles/conv-children.pdf>

In March 2010, FORUM-ASIA in collaboration with INSEC Nepal organised the first sub-regional workshop on Regional Human Rights Mechanism for South Asia, which came up with the Kathmandu Declaration 2010 as an outcome document with a strong call to South Asian governments to establish regional human rights mechanisms in South Asia and establish National Human Rights Institutions (NHRIs) in Pakistan and Bhutan.

While European, American, African, Southeast Asian, and Arab States have successfully established regional mechanisms, South Asia lags behind. Recognising the need and importance of regional mechanisms for the realisation of human rights, the United Nations General Assembly, the Vienna Declaration, and Programme of Action have specifically called for their establishment. However, no such mechanism has been established so far. SAARC had agreed to a process of informal political consultations but there is no formal institutionalised process for discussion on bilateral political disputes among the member states within the existing framework of SAARC. It has also been noted that these regional human rights mechanisms have not discussed or considered online human rights violations. Most of these mechanisms are still limited to offline human rights violations.

## Indian Human Rights Mechanisms

The right to peaceful assembly and association rests at the core of the functioning of the democratic systems. It is closely related to other cornerstones of democracy and pluralisms such as freedom of expression and freedom of association. The right to collective bargaining is also recognised in India. Freedom of association and the right to collective bargaining can be exercised at various sectors at national and international levels in several categories such as medical professionals, teachers, and agricultural workers, among others.

The Constitution of India guarantees freedom to assemble and the freedom to associate. Article 19 (1)(b) provides that “*all citizens shall have the right to assemble peaceably and without arms*”. Article 19(1)(c) of the Constitution of India guarantees the right to ‘form associations’ to all citizens. However, the freedoms guaranteed by Article 19 (1) are hedged by many restrictions and are not absolute. Each of the rights guaranteed by the Constitution of India are liable to be controlled and regulated by laws made by Parliament or the State Legislatures, and preemptorily curtail the exercise of rights to ensure peace and tranquillity. FoAA is curtailed by the Indian Constitution, shaped only by the jurisprudence of the Supreme Court, and the procedural code doesn’t have any role in curtailing the freedom. Clause (4) of Article 19 allows the State to impose reasonable restrictions on this right in the interest of public order or morality or the sovereignty and integrity of India. The right to form associations or unions has a very wide and varied scope, including all sorts of associations, i.e., political parties, clubs, societies, companies, organisations, entrepreneurships, and trade unions, among others. This shows that it is an organisation or permanent relationship between its members in

matters of common concern. Thus, it includes the right to form companies, societies, partnerships, and trade unions.

Accordingly, clauses (2) to (6) of Article 19 lay down the grounds and the purposes for which a legislature can impose 'reasonable restrictions' on the rights guaranteed by Article 19. The phrase 'reasonable restriction' connotes the limitation imposed upon a person in enjoyment of the right should not be arbitrary or of an excessive nature, beyond what is required in the interest of the public<sup>27</sup>. The word 'reasonable' implies intelligent care and deliberation that is the choice of a course, which reason dictates.

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27. Article 19 of Constitution of India and Right to Freedom;  
<http://www.gktoday.in/article-19-of-constitution-of-india-and-freedom-of-speech/>

# SECTION III: INTERNET ENABLING FOAA

The Internet, particularly social networking websites, have become important tools for raising voices or concerns and sharing views or opinions. Social networking platforms and mobile phones enhance human freedoms, rallying people around social, political, and economic issues, helping build associations and networks offline and online to advocate for and to defend human rights. In India, LGBT-India was established in 1999 as an e-group which then transitioned to Yahoo! Groups. The mailing list is still active today and is used by English-speaking, middleclass citizens to discuss LGBTQ issues. Gay-Bombay, set up around the same time, and LGBT-India function as online resources even today. There have been various instances in India where civil society organisations, activists, and individuals have used the Internet and digital tools effectively for campaigning, forming associations, and creating common interest.

## **The Pink Chaddi Campaign (Online to Offline)**

This first-of-a-kind movement in India was initiated by a group of women who came together to take collective action, using a social media platform – Facebook — against a group of 40 members of right-wing Hindu group Sri Ram Sena. Members of Sri Ram Sena had attacked women and men in a pub in the Indian city of Mangalore in January 2009. The founder of the group, Pramod Muthalik, publically endorsed the attacks and announced plans to forcibly marry unmarried couples spotted at public places on Valentine’s Day. . In response to this, a group of women formed the ‘Consortium of Pub-going, Loose, and Forward Women’ (PLFW) on Facebook and started sending pink chaddis (pink underwears) to members of the right-wing group. Within a week, 40,000 members had joined this Consortium. On Valentine’s Day that year, Sri Ram Sena offices received 2000 pink chaddis from India and abroad.

In an interview with a British daily newspaper, The Guardian, Nisha Susan, creator of Pink Chaddi campaign, stated, *“Chaddi is a childish word for underwear and slang for right-wing hardliner. We invited people who disagreed with Muthalik’s plans to send him pink chaddis. Indian women are aware of our tenuous grip on our rights. We worry that our next move will condemn us: running, sitting in a park, hugging a man, whistling, consensual sex, writing, buying a condom, asking for a share in property, getting a demanding job, leaving a husband<sup>28</sup>”*.

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28. The Guardian; ‘Why we said pants to India’s bigots’; <https://www.theguardian.com/commentisfree/2009/feb/15/india-gender>

After Facebook disabled the group's messaging function (because the membership exceeded 5,000) — and later revoked access after the page was hacked — its creators realised they had no other means to communicate with their members. In hindsight, the organisers felt it was problematic to rely solely on a proprietary platform like Facebook to organise and manage their membership base<sup>29</sup>. However, the public debate around the campaign had forced the right-wing Hindu group to back down on its threats of disrupting Valentine's Day celebrations.

Though, it was a useful tool to target local audience with Facebook being very popular with the target demographic at the time, it created new vulnerabilities that the organisers did not foresee.

### **Anna Hazare Movement (Offline to Online)**

During the Jan Lokpal Bill movement in March 2012, the Internet, especially social media sites, were abuzz with articles and messages showing support for social activist Anna Hazare's fight against corruption and his support for Jan Lokpal Bill<sup>30</sup>. Within 10 days, over 100 pages were created on Facebook dedicated to Hazare and his campaign, garnering over 2,00,000 Likes. This is an example of how offline social movements have migrated to online spaces.

### **Save the Internet.in (Online to Offline)**

In 2015, Save the Internet.in came out as the largest movement that started online and then moved offline. The movement known as the 'Battle for the Free Internet' began in March 2015, when major corporate private players—Facebook and Airtel — launched their zero-rating services. The Telecom Regulatory Authority of India (TRAI) released a consultation paper in March that year, seeking comments on the definition of network neutrality in India. In reply to the consultation paper, a comedy group, All India Bakchod (AIB) released a YouTube video that garnered over 3.8 million views and sparked an online debate about the issue. Eventually, the debates surrounding the concept of net neutrality in the country moved offline, garnering the interest and attention of millions of citizens.

SavetheInternet.in campaign was initiated by MediaNama Founder Nikhil Pahwa, Reddit India Founder and Co-founder of HasGeek Kiran Jonnalagadda, among several others, to generate public awareness and garner support in response to TRAI's consultation paper. More than two million unique visitors signed the SavetheInternet.in petition and over 33,000 people liked their Facebook page. As a result of this campaign, TRAI received more than one million email responses to their consultation paper, which had earlier received only 18,000 responses.

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29. Blog from Yahoo Fellow! 'Three Lessons Activists and Marketers Can Learn From India's Valentine's Day Pink Panty Campaign' <https://blogs.commonsgorgetown.edu/isdyahoofellow/three-lessons-activists-and-marketers-can-learn-from-indias-valentines-day-pink-panty-campaign/>

30 PRS Legislative Research; About the Lok Pal Bill; <http://www.prsindia.org/pages/all-about-the-lok-pal-bill-137/>

In an interview with Digital Empowerment Foundation (DEF) regarding usefulness of offline campaigns, Pahwa observed, “*The challenge for campaigning offline usually is that not everyone has the time to be at a particular place at/for a particular time while online campaign allows people to express their point of views irrespective of their location. From the perspective of the campaign runners, they can get support across constituencies of the country...*”

With regard to advantages of online protest, he said– “*...it allows people to participate in a consultation process. Take SavetheInternet.in campaign for example, people could send TRAI an email instead of sending physical letters, which have a cost attached to them. So, online campaign addresses the issue of the cost of participation, it also takes a lot less time as you can quickly write the text and send it. It allows for direct interaction between campaigners. For example, there are many people who were not there with us in the beginning but it allowed them to contact us directly on Twitter, Facebook, email and chat; and asked us questions to which we were capable to answer directly. So, the online media allows campaign runners to convince people, who may not otherwise be convinced about the issues earlier, through one-to-one interactions...*”

### **Kiss of Love Campaign (Online to Offline)**

The ‘Kiss of Love’ campaign was initiated in protest of moral policing. It started in Kerala and later spread to other parts of the country. Initially, a Facebook campaign page, ‘Kiss of Love’ called forth youth across Kerala to participate in a protest against moral policing on November 2, 2014, at Marine Drive, Cochin. The campaign was initiated in response to a mob attack, in which a coffee shop in Kozhikode city was demolished. The attack was carried out to ‘condemn’ alleged immoral activity, i.e. public display of affection by a few couples. This triggered the birth of the Kiss of Love movement which soon spread to other metropolitan cities. The campaign received opposition from various right-wing religious and political groups, including the Shiv Sena<sup>31</sup>, Bharatiya Janata Yuva Morcha<sup>32</sup>, Vishva Hindu Parishad,<sup>33</sup> Bajrang Dal<sup>34</sup> and Ernakulam wing of Kerala Students Union<sup>35</sup> but it also received immense support with more than a whopping 1,20,000 individuals showing support on its Facebook page. The Delhi High Court and the Supreme Court

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31. Shiv Sena also known by the name Sena, is an Indian far-right regional political party. Its ideology is based on pro-Marathi ideology and Hindu nationalism (Hindutva), founded on 19 June 1966 by political cartoonist Bal Thackeray

32. The Bharatiya Janata Yuva Morcha (BJYM) (translation: Indian People Youth Front) is the youth wing of the Bharatiya Janata Party (BJP). It was founded in 1978, and its first national president was Kalraj Mishra

33. Vishva Hindu Parishad abbreviated VHP, is an Indian right-wing Hindu nationalist organisation based on the ideology of Hindutva. It was founded in 1964 by M. S. Golwalkar and S. S. Apte in collaboration with Swami Chinmayananda

34. The Bajrang Dal is a militant Hindu organisation that forms the youth wing of the Vishva Hindu Parishad (VHP) and a member of the RSS family of organisations

35. Kerala Students Union was the Kerala branch of the National Students Union of India, the student wing of the Indian National Congress. KSU was founded on May 30, 1957 in Alappuzha

of India in 2014 in their judgments stated, “*kissing in public is not an obscene act and no criminal proceedings can be initiated for kissing in public*”<sup>36</sup>.

### **Wear the Skirt Issue in Bangalore - Indian Gang Rape: Men Don Skirts In ‘Skirt The Issue’ Awareness Campaign Opposing Violence Against Women (Online to Offline)**

A group of men in Bengaluru, a city in the Indian state of Karnataka, donned skirts in January 2013 to show support for India’s women in the wake of the December 16 gang rape of a 23-year-old student on a bus in New Delhi. The campaign saw around 200 people come together in Bengaluru for an event organised by Samarpita Samaddar, a communications professional, and Aditya Mallya, an entrepreneur. ‘Skirt the Issue’ event gathered support and participants primarily through Facebook. Though the turnout was not as high as they initially expected, more than 500 men across the country responded. The skirt rally is one of many anti-rape protests that have taken place across the country, following online support/awareness on the issue.

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36. Kiss of love campaign; <http://timesofindia.indiatimes.com/city/delhi/Kissing-in-public-by-married-couple-not-obscene-HC/articleshow/4066941.cms>

# SECTION IV: RESTRICTIONS

## A. Restrictions on Freedom of Assembly and Association (FoAA) offline

### 1. Restriction on Freedom of Assembly

Article 19 (1)(b) accords that all citizens have the right to peaceably assemble and without arms, which can be curbed only in the interest of public order or the integrity of the nation. The Section 144 of the Code of Criminal Procedure, 1973, empowers certain officers to prohibit an assembly, subject to the conditions:

- There must be sufficient grounds for proceeding
- Immediate prevention or speedy remedy is desirable
- An order, in writing, should be passed stating the material facts and be served the same upon the concerned person.

The Unlawful Activities (Prevention) Act, 1969<sup>37</sup>, enables the government to take actions against any individual or association in relation to unlawful activity. The Constitution of India also authorises the government to crack down on protesters in the interest of public order. The government is, however, can be made accountable to the court to provide reasons for taking action against the people who may have had no reason to believe that they were participating in an unlawful assembly.

Picketing or demonstration may be regarded as exercising one's freedom of speech. Peaceful picketing is free speech and a non-violent act of persuasion<sup>38</sup>. The right to make peaceful demonstration while holding banners and assembling or arranging a meeting at some place are democratic rights given by the Constitution of India along with the power of State to impose restrictions. In the case of Babulal Parate vs State of Maharashtra<sup>39</sup>, the Supreme Court upheld the citizens' right to take out a procession or to hold demonstrations or public meetings as part of the freedom to assemble peacefully and without arms, and the right to move freely anywhere in the territory of India. In this case, the Supreme Court upheld Section 144 of the Code of Criminal Procedure (CrPC)

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37. The Unlawful Activities (Prevention) Amendment Act 2012; <http://indiacode.nic.in/acts-in-pdf/032013.pdf>

38. Justia; US Supreme Court; Thornhill v. Alabama 310 U.S. 88 (1940); <https://supreme.justia.com/cases/federal/us/310/88/>

39. Babulal Parate v. State of Maharashtra , AIR 1961 SC 884; <http://lawyersupdate.co.in/LU/20/817.asp>

and stated that the magistrate had the power to prevent such activities, which would obstruct public interest and peace.

While elaborating on prohibitory issue under Section 144 of the CrPC in the Madhu Limaye case (1971 AIR 2486), the apex court said, *“It is not an ordinary power flowing from administration but power used in judicial manner and which can stand further judicial scrutiny in the need for exercise of the power, in its efficacy and in the extent of its application.”*

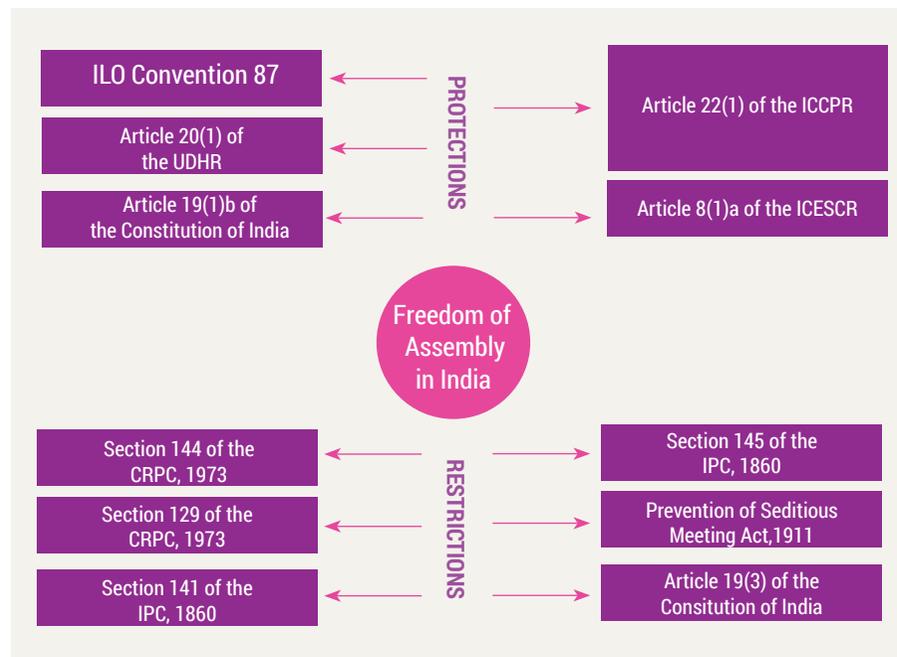


Figure 2: India's position on the protection and restrictions on freedom of assembly

In the case of *Baba Ramdev*, the judgment was landmark in protecting the rights of protesters where the Supreme Court took up suo moto action on the nights of June 4 and 5, 2011, at New Delhi's Ramlila Maidan. A prohibitory order under Section 144 was sought to be enforced on a sleeping crowd that was dispersed by the police using force. The police have been held liable for the misuse of power under Section 144 of CrPC. As a result of this, the Supreme Court broadened the ambit of Fundamental Rights and stated that Right to Sleep is 'crucial' to life, saying it is at par with the right to privacy and the right to food as part of the right to life under Article 21 of the Constitution<sup>40</sup>. It also relates freedom of assembly to peacefully sleeping in a public space.

40. Times of India; Right to sleep a fundamental right, says Supreme Court; <http://timesofindia.indiatimes.com/india/Right-to-sleep-a-fundamental-right-says-Supreme-Court/articleshow/12025358.cms>

The Prevention of Seditious Meetings Act, 1911, is an extension of the Prevention of Seditious Meetings Act, 1907, a remnant law of British India that enables the government to prohibit any unauthorised political meeting by more than 20 persons in a province designated as a 'proclaimed area' by provincial authorities. It empowers the government to declare a proclaimed area if there is a threat of disturbance to public tranquillity<sup>41</sup>. It defines 'public meeting' as one which is open to the public or any class or portion to the public. In terms of penalty, the Act states that any person holding or conducting a public meeting at proclaimed area contrary to the provisions of Section 4 will be punished with imprisonment for a term which may extend to six months, or with fine or both<sup>42</sup>. It gives power to the State to withdraw any public meeting.

Sections 129, 130, and 131 of the CrPC authorise civil forces and the Army to disperse any unlawful assembly, which may cause disturbance to public peace<sup>43</sup>. Section 129 of CrPC authorises a magistrate or office-in-charge of a police station or, in the absence of such, the officer in charge to disperse assembly. Sections 130 and 131 authorise armed forces to disperse assembly.

In 1993, the Calcutta High Court struck down an order, issued by the police commissioner, refusing permission to the Bharatiya Janata Party (BJP) to hold a public meeting. Similarly, in *Himat Lal K. Shah vs Commissioner of Police* (1973 AIR 87, 1973 SCR (2) 266), the Commissioner of Police, Ahmedabad, rejected permission to hold a public meeting on a public street in connection with All India Students' strike as it is permissible for the State to make regulations in aid of the right to assembly of each citizen and also impose reasonable restrictions in the interest of public order. Section 141 of the Indian Penal Code (IPC) states that assembly of five or more persons becomes unlawful if the object is engaged in any illegal activity<sup>44</sup>.

## 2. Restrictions on Freedom of Association

Article 19 (1)(c) in the Constitution of India guarantees the right to form associations and unions to its citizens. However Clause (4) of Article 19 limits the right to freedom of association and union in the interest of public order or morality or the sovereignty and integrity of India<sup>45</sup>. For adjudging reasonableness of a restriction, the court takes into account various factors as: the duration and the extent of the restrictions; the circumstances under which, and the manner in which, that imposition has been authorised; the nature of the right infringed, the underlying purpose of the restrictions imposed, the extension

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41. Para 5; The prevention of seditious meetings Act, 1911; <https://indiankanoon.org/doc/1211616/>

42. Prevention of Seditious Meetings Act, 1911; [http://www.satp.org/satporgtp/countries/india/document/actandordinances/prevention\\_of\\_seditious\\_meetings\\_act1911.htm](http://www.satp.org/satporgtp/countries/india/document/actandordinances/prevention_of_seditious_meetings_act1911.htm)

43. Code of Criminal Procedure 1973; <http://bombayhighcourt.nic.in/libweb/oldlegislation/CRIPC1898/Chapter%201%20to%2010.pdf>

44. *Ibid*

45. *Ibid*

and the urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time, all these considerations enter into the judicial verdict<sup>46</sup>.

The jurisprudence of the court on freedom of association is separated on the following:

- State of Madras vs VG Row 52 concerned the Indian Criminal Law Amendment (Madras) Act, 1950, that empowers the state to declare associations to be illegal by a notification. Section 15 (2)(b) of this statute provides that an association can be declared to be unlawful if it constitutes a danger to the public peace, or interferes with the maintenance of public order or the administration of the law.
- The determination of whether an association is unlawful requires the tribunal to consider whether the material to support such declaration outweighs the material against it.
- Freedom of association does not include the right to recognition or the fulfillment of the aims of that body.
- The Supreme Court confronted the issue of maintaining the original composition of membership of an association. Contrary to Damyanti Naranga was LN Mishra Institute of ED & Social Change vs State of Bihar. Here, the state government of Bihar utilising the Bihar Private Educational Institutions (Taking Over) Act, 1987, took over an educational institute run by an association. The only function of the association was to run this institute. By virtue of the institute being nationalised, the society lost its right of management and control of it. Justice Dutt in his judgment held that the state government's actions did not violate Article 19 (1)(c), since the right of the society to form an association and to determine its composition or constitution had not been infringed<sup>47</sup>.

Besides that, there are also special restrictions in terms of exercising the freedom of association that are imposed on government employees, including armed forces and security personnel. AIR 1963, SC 812 (Ghosh and another Joseph) upheld the service rules that prevent the government employees from striking. Similarly, Justice Gajendragadkar in his judgment prohibited the government servant from joining or continuing as member of any association that was not recognised by the government, thus violating their right to freedom of association. The Supreme Court held that the trade unions have no guaranteed right to effective bargaining or right to strike or right to declare a lock-

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46. Reasonableness of Restrictions; [http://shodhganga.inflibnet.ac.in/bitstream/10603/52360/11/11\\_chapter%204.pdf](http://shodhganga.inflibnet.ac.in/bitstream/10603/52360/11/11_chapter%204.pdf)

47. Damyanti Naranga was LN Mishra Institute of ED & Social Change v. State of Bihar; <http://lawfinderlive.com/jlink.aspx?q=103798&p=13&pos=124&qType=6&tidp=89549&tid=108378>

out<sup>48</sup>. Concluding, it said, freedom to form association or unions doesn't entitle a person to enter into criminal conspiracy either against individuals, groups or against the State.

Thus, though Indian citizens enjoy the freedom to assemble peaceably and freedom to form associations or unions, these are curtailed by Parliament or the state legislatures to ensure peace and tranquillity.

Referring to restrictions in the Indian state Gujarat, RTI activist Pankti Jog stated, *“Police do not give prior permission for cancelling any protest. They generally give national security as a concern for cancelling the protest. Activists or leaders of the organisation or movement are detained pre-hand again by giving reason that IB report warns of some un-wanted incidence.”*

Citing an example of the Gujarat state government, Pankti pointed, *“Freedom of association and assembly for any issue or rights or policy change in Gujarat has become challenging in the last few years. The Ahmedabad Municipal Corporation stopped giving [permission to use] the halls under their control for any meeting related to people's issues. Recently, the state government made a pre-condition that organisers have to give undertaking that people in the meeting will not talk against the government, which is basically against the fundamental right to speak as rewarded by the Constitution. In Ahmedabad city, Section 144 of IPC is executed throughout the year. Thus, one cannot have assembly or association in public place without permission, which limits people's freedom of speech and expression.”*

## **B. Restriction on Freedom of Assembly and Association (FoAA) online**

In India, there is no law that restricts freedom of assembly and association online. There is no law in India that protects freedom of assembly and association online either. However, Sections 129, 130, and 131 of the CrPC, when applied, seem to restrict these rights online. Besides, various other Sections of CrPC, such as Section 69A and Section 79(3) of the IT Act, allows authorities to block the content directly or via intermediaries. This report

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48. Book, 'Indian Polity For Upsc 3E';

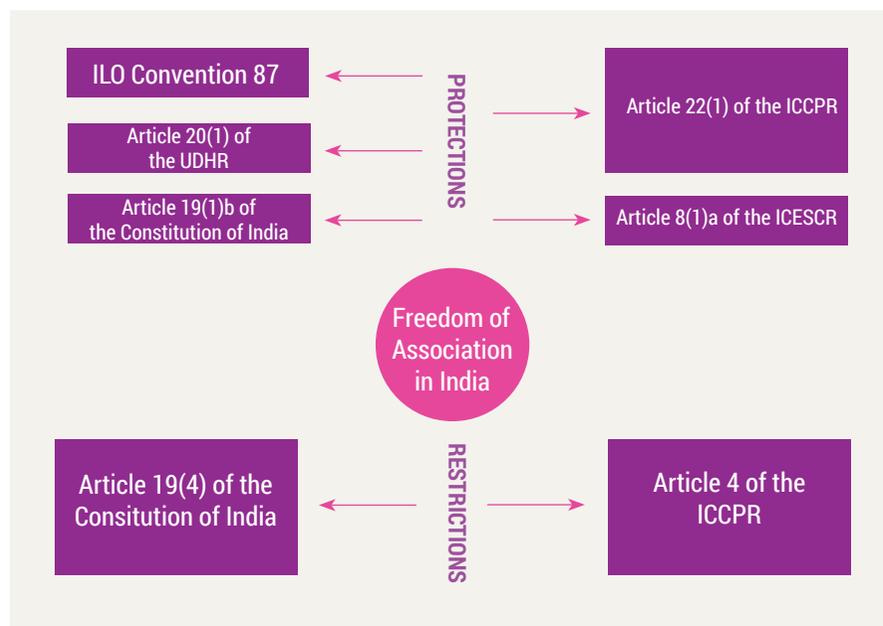


Figure 3: Protection and restriction of Freedom of Association in India

identifies five cases where the government has restricted freedom of expression, speech, and assembly and association. These case studies cover instances of online censorship, network shutdowns, cyber-bullying, hacking and anonymous attacks, and restrictions on civil society groups in general.

### I. Online censorship

Free flow of information is essential in a democratic society to assemble and associate with like-minded groups and people. Having the freedom to access the Internet enables citizens to exercise their right to access to information and their right to freedom of assembly and association—freely. This leads to the dissemination of information and ideas. These activities are the building blocks of economic growth and are crucial to the maintenance of democratic values. Filtering, regulation, or outright censorship of content by government bodies or private Internet access providers curtails the democratising effects and economic benefits of the Internet. It imposes further limitations on certain groups, especially marginalised groups, severely limiting their right to associate and assemble with another group freely and restricting access to relevant content and sympathetic groups.

Information access blockades have increased drastically from 2010. Censored sites are usually those that contain content on human rights, freedom of expressions and speech, security issues, and pornography. In the last five years, between January 2012

and December 2016, 47 significant instances of online censorship have taken place in India. Some of the notable incidents of online censorship in recent years have affected each one of us. In 2011, the Crime Branch of Mumbai blocked the website of cartoonist Aseem Trivedi<sup>49</sup> for displaying anti-corruption cartoons targeted at politicians. Following this crackdown on the website, Trivedi and Journalist Alok Dixit started a 'Save Your Voice' campaign against Web censorship in India in January 2012. The campaign was initiated to save the freedom of the Internet, protect the freedom of speech, and to raise a collective voice for a strong democracy and a better future. Both activists also went on a hunger strike for seven days as a mark of protest.

In 2012, several torrent domain-hosting sites were blocked on the instructions of the Department of Telecommunications (DoT) without giving any stated reasons. The same year, the government banned more than 300 specific URLs over inflammatory content, allegedly containing fictitious details about the Assam violence.

Between July and December 2014, Facebook reported that 5,832 pieces of content were restricted following requests from India, *"primarily by law enforcement agencies and the India computer emergency response team [for alleged inflammatory content], including anti-religious content and hate speech that could cause unrest and disharmony"*<sup>50</sup>.

In 2013, a women's music band from Kashmir called Pragash (meaning 'The First Light'), that started their music band on the Internet, faced a fatwa from Grand Mufti (priest) Mohammad Bashiruddin for disrespecting religious sentiments. The young Kashmiri girls, who were studying in the Grade X at the time, had come together to pursue their interest in music over the Internet in 2013. In response, they received a fatwa from a religious group. They also received rape and death threats from fringe groups via social networking sites, emails and text messages<sup>51</sup>. Though they were not charged under any section of the law, they faced online abuse on social media. In this particular incident, like-minded girls had used the Internet to exercise their freedom to associate peacefully but their freedom was curtailed by a religious group.

Incidents such as these are not rare. Eight persons in Uttar Pradesh were arrested for posting 'objectionable content' on social networking website Facebook on July 2015. Seven people were arrested in Bahraich district as they had liked and commented on their friend's post. They were arrested when an FIR was filed by a political party and its supporters under Sections 153B, 295A, 504 of the IPC for posting 'objectionable content'.

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49. IFEX Blog; 10 controversial cartoons from India's Aseem Trivedi; [https://www.ifex.org/india/2012/09/27/trivedi\\_gallery/](https://www.ifex.org/india/2012/09/27/trivedi_gallery/)

50. The Financial Express; Facebook Global Government Requests Report: At 5,832, India tops in asking for content restrictions; <http://www.financialexpress.com/industry/india-tops-in-asking-for-content-restrictions-facebook/54196/>

51. The Internet Democracy Project Blog; 'No pussy riot for Kashmir'; <https://internetdemocracy.in/media/no-pussy-riot-for-kashmir/>

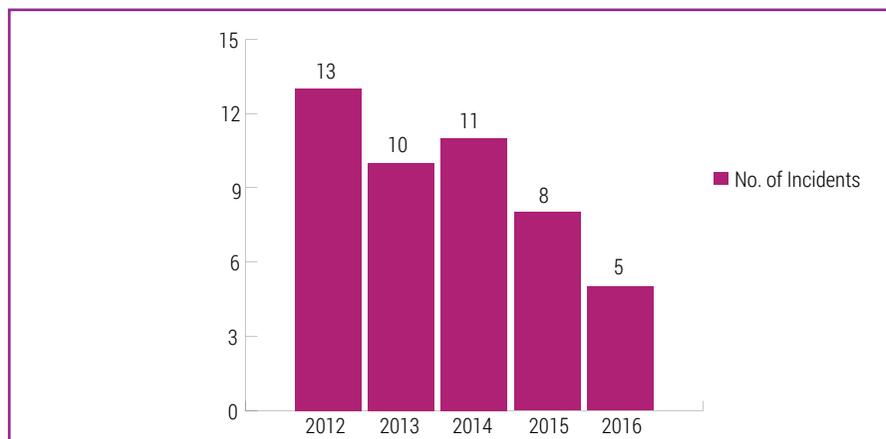


Figure 4: shows 1,087 website and webpage were blocked in India in 2012. This is the highest in recent years, followed by 2015 with 903 websites/webpages blocked, including 857 porn websites. There was a sharp decrease in website blocks in 2013 compared to 2012. Data shows that there were only 174 website blocks in 2013 compared to 1,087 in 2012. In 2014, there were 363 website blocks and 337 website blocks in the first half of 2016.

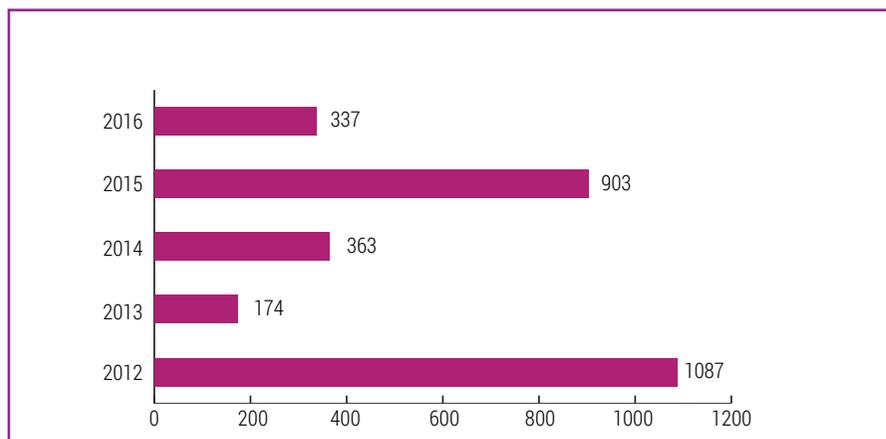


Figure 5: Number of websites and webpages blocked

The police also considered invoking the National Security Act (NSA), usually used against people accused of spreading communal tension.

Figure 4 shows that the highest number of website blocks occurred in the year of 2012. There were 10 and 11 incidents of websites being blocked in the two subsequent years, respectively. We see a decreasing trend of website blocks in 2015 with only eight incidents

being reported. However, in one such incident, as many as 857 porn websites were blocked in 2015. Five incidents of website blocks were reported in the first half of 2016.

In 2015, the NDA government made inept attempts at enforcing a ban on online pornography that further resulted in widespread public outrage. The government even issued a vaguely worded order, stating, “...the intermediaries are free not to disable any of the 857 URLs which do not have child pornography<sup>52</sup>”. This meant that Internet service providers (ISP) were liable for the content under Section 79(3)(b). It also shows that the government is proactively notifying intermediaries to filter content for ‘child pornography’ in their revised order issued to deal with websites blocked as result of its crackdown on pornography. In January 2016, the Maharashtra Anti-Terror Squad blocked 94 websites<sup>53</sup> that were allegedly radicalising the youth to join the Islamic State (IS), a militant group.

The State’s shifting reason for blocking access to information has been reflective of its tendentious attitude towards free speech and freedom of expression. At times, the judiciary acts as a check on the executive’s proclivity for banning. For instance, in 2010, the Supreme Court upheld the Maharashtra state court decision to lift the ban on a book about Indian warrior king Shivaji, written by American author James Laine, which according to the state government, contained material promoting social enmity<sup>54</sup>. Similarly, in March 2016, the National Council for Promotion of Urdu Language (NCPUL), which operates under the Ministry of Human Resources Development, introduced a form “which requires authors of books that NCPUL acquires annually to declare that the content will not be against the government or the country”<sup>55</sup>.

Sections 66F, 67A, 67B, 69A, 72A, and 79 of the IT Act, 2000, give power to the government to censor online content. Section 69A of IT Act 2000 allows the State to issue directions to block public access to any information through any computer resource involving the sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign states or public order or to prevent incitement to the commission of any cognizable offence relating to the above<sup>56</sup>.

Reasons for online censorship vary from objection to content included in the website

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52. Medianama article; India’s porn ban hasn’t exactly been lifted: it’s conditional & up to ISPs; <http://www.medianama.com/2015/08/223-porn-india-ban/>

53. NDTV article; Maharashtra Anti-Terrorist Squad Blocks 94 Websites Linked To ISIS; <http://www.ndtv.com/india-news/maharashtra-anti-terrorist-squad-blocks-94-websites-linked-to-isis-1269589>

54. Times of India; Supreme Court lifts ban on James Laine’s book on Shivaji; <http://timesofindia.indiatimes.com/india/Supreme-Court-lifts-ban-on-James-Laines-book-on-Shivaji/articleshow/6148410.cms>

55. The Indian Express article; Urdu writers asked to declare: My book not against the govt, nation; <http://indianexpress.com/article/india/india-news-india/urdu-writers-asked-to-declare-my-book-not-against-the-govt-nation/>

56. Centre for Internet Society Blog; Is India’s website-blocking law constitutional? – I. Law & procedure; <http://cis-india.org/Internet-governance/blog/is-india2019s-website-blocking-law-constitutional-2013-i-law-procedure>

to maintaining the sovereignty and integrity of India. According to various sources, reasons for online censorship can be categorised into seven major categories. Out of 47 incidents, 34 per cent of censorship has taken place due to ‘objectionable content’ on the websites. As many as 857 porn websites were blocked by court for reasons of ‘morality’ and to prevent violence against women and children. With respect to laws concerning pornographic content in India, the distribution or sale of pornographic content is a crime, while viewing or reading such content is not<sup>57</sup>. Out of 47 incidents, 25.5 per cent incidents of online censorship occurred due to preventive measures to avoid the spread of rumours during riots, communal violence, and other similar situations by the Department of Telecommunication, with the various provisions in the IT Act and court orders. For instance, on September 18, 2013, as many as 82 URLs were blocked, in addition to 26 URLs that were blocked earlier, after violence broke out between two religious groups in Muzafarnagar in the Indian state of Uttar Pradesh.

According to John Doe<sup>58</sup> orders, 19.1 per cent of the websites across those 47 incidents had been blocked to avoid online piracy of certain movies or to safeguard the copyright issues regarding telecast of certain international sporting events such as the FIFA World Cup and the ICC World Cup. Further, 17 per cent of the websites were blocked as

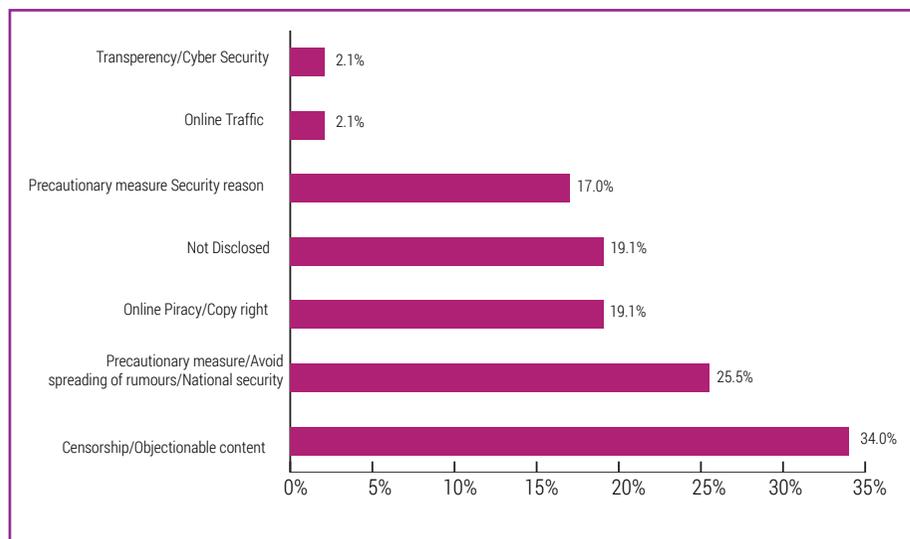


Figure 6: Reasons for website blocks

57. Erotics India; Porn Consumption and Privacy: A Legal Perspective; <http://www eroticsindia.org/connect-your-rights/porn-consumption-and-privacy-a-legal-perspective/>

58. “John Doe” orders or “John Doe” injunctions are “cease and desist” orders passed by a court of law against anonymous entity/entities. The principle is that the person who is a threat is not known as they are veiled being many in number backed by unknown identities. These orders in the recent times have been issued in matters of protecting copyrights. The protection of books before release, prevention of movie piracy, preventing showcase of movies in cable network during the time of theatre release, and even stopping telecast of live sports events have all been achieved through useful utilization of “John Doe” Orders.

precautionary measures because they were allegedly found to contain content related to the Islamic State (Figure 6). On December 31, 2014, a set of websites were blocked by the Government of India's Anti-Terrorism Squad (ATS) under the IT Act of 2011 for 'objectionable content' on the grounds of national security. The websites were blocked to curb IS propaganda. This angered users and prompted online protests.

Following the blocking of websites, Head of the IT Cell at BJP Arvind Gupta tweeted that the websites were blocked because they carried anti-sovereign content from IS<sup>59</sup>. The reasons for blocking 19.1 per cent of websites were not disclosed by DoT. The 32 websites, which were blocked or filtered by the Government of India on December 26, 2014, did share the blocking notification but did not share any explanation or reason for blocking the websites<sup>60</sup>. The Air India website was blocked on August 2014 due to heavy traffic on the website after an offer for cheap airfares was announced.

If a website is blocked, citizens have a constitutional right to access the information and to know the legal grounds on which access is being restricted or denied. Unfortunately, under the present blocking regime in India, it is for service providers to comply with blocking orders. They are not obliged to notify users of instances of censorship. The 'Blocking Rules' require the notice of 'person or intermediary', thus implying that notice may be sent to either the 'originator or the intermediary'. Moreover, the 'Confidentiality Clause' raises the presumption that nobody beyond the intermediaries ought to know about a block.

Some of these instances do not affect the freedom of association exclusively; however, if we group such censorship, it largely affects the freedom of assembly and association for certain groups of people who are trying to access information or are assembled in one or groups of websites. Additionally, it must be reiterated that in most of these instances, it is the curbing of the freedom of expression that in turn leads to the curbs on freedom of peaceful association and assembly. The two rights are inextricably linked and this is especially true in cases where protests originate online or are moved to the online space.

Unsurprisingly, intermediaries are interested in self-preservation and avoiding conflict with the government. Thus, it becomes complicit for intermediaries to maintain secrecy in blocking orders. As a result, it is often difficult to determine why content is inaccessible, forcing the users to assume it is a technical error. Consequently, pursuing any legal recourse to hold the government accountable for their censorious activities becomes challenging for citizens. In failing to consider the constitutional merits of the confidentiality clause, the Supreme Court has refrained from addressing the broad issue of blocking or online censorship.

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59. Page 31, Srivastava, Ritu & Nikki Shah, (2015 December). Limited access restricting expressions, Digital Empowerment Foundation,

60. Srivastava, Ritu & Nikki Shah, (2015 December). Limited access restricting expressions, Digital Empowerment Foundation, Page: 31; [http://internetrights.in/wp-content/uploads/2015/10/Country-Research-Report\\_September-2015.pdf](http://internetrights.in/wp-content/uploads/2015/10/Country-Research-Report_September-2015.pdf)

**Table 1: This table shows websites that were blocked between 2012-2016**

Sl. No	Links	Reasons	Keywords	Month	Year
1	<a href="http://indianexpress.com/article/india/india-news-india/maharashtra-cops-block-94-sites-used-to-radicalise-youth-about-isis/">http://indianexpress.com/article/india/india-news-india/maharashtra-cops-block-94-sites-used-to-radicalise-youth-about-isis/</a>	Maharashtra anti-terrorism squad blocked access to 94 websites which were linked to the IS for counter measures	Preventive measure	January	2016
2	<a href="http://www.thehindu.com/news/cities/chennai/fans-shocked-as-youtube-blocks-ms-vishnu-sahasranamam/article8100072.ece">http://www.thehindu.com/news/cities/chennai/fans-shocked-as-youtube-blocks-ms-vishnu-sahasranamam/article8100072.ece</a>	MS Subbulakshmi's YouTube links were blocked owing to copyright claims by a recording company	Online Piracy	January	2016
3	<a href="http://indianexpress.com/article/india/india-news-india/australian-islamic-preachers-website-among-three-more-blocked-by-state-ats-2778562/">http://indianexpress.com/article/india/india-news-india/australian-islamic-preachers-website-among-three-more-blocked-by-state-ats-2778562/</a>	Australian Islamic preacher's websites blocked by ATS due to security reasons and to prevent propagating the ideology of IS	Preventive measure	May	2016
4	<a href="http://timesofindia.indiatimes.com/city/bhubaneswar/Cyber-criminals-hack-Utkal-University-website/article-show/52087115.cms">http://timesofindia.indiatimes.com/city/bhubaneswar/Cyber-criminals-hack-Utkal-University-website/article-show/52087115.cms</a>	Utkal University website was hacked by Pakistani hackers and the website was blocked by authorities after identifying the issue	Security, Preventive measure	May	2016
5	<a href="http://timesofindia.indiatimes.com/tech/tech-news/Governmt-bans-240-websites-offering-escort-services/article-show/52747302.cms">http://timesofindia.indiatimes.com/tech/tech-news/Governmt-bans-240-websites-offering-escort-services/article-show/52747302.cms</a>	Ministry of Home affairs recommended ISPs to ban 240 websites offering escort services and seeking action against advertisement of prostitution in newspapers and websites	Women Security	June	2016
6	<a href="http://timesofindia.indiatimes.com/india/Uploaded-and-blocked-a-daylong-battle-rages-on-the-web-over-BBC-documentary/articleshow/46472422.cms">http://timesofindia.indiatimes.com/india/Uploaded-and-blocked-a-daylong-battle-rages-on-the-web-over-BBC-documentary/articleshow/46472422.cms</a>	Delhi High Court ordered ISPs to block video sharing websites where the BBC documentary on 'India's Daughter' was uploaded. Officials say that it "appears to encourage and incite violence against women"	Women Security, Preventive measure	March	2015
7	<a href="http://www.deccanchronicle.com/150803/nation-current-affairs/article/porn-ban-complete-list-857-porn-websites-blocked-india">http://www.deccanchronicle.com/150803/nation-current-affairs/article/porn-ban-complete-list-857-porn-websites-blocked-india</a>	Department of Telecommunication banned 857 porn website on grounds of morality and decency	Morality	August	2015
8	<a href="http://trak.in/tags/business/2015/12/01/ringo-app-blocked-indian-telecom-operators-domestic-calling-suspended/">http://trak.in/tags/business/2015/12/01/ringo-app-blocked-indian-telecom-operators-domestic-calling-suspended/</a>	Low cost domestic and international calling app has been blocked by Indian Telecom Operators	Not Disclosed	November	2015

Sl. No	Links	Reasons	Keywords	Month	Year
9	<a href="http://www.newindianexpress.com/cities/bengaluru/ISROs-Commercial-Arm-Website-Hacked/2015/07/12/article2916554.ece">http://www.newindianexpress.com/cities/bengaluru/ISROs-Commercial-Arm-Website-Hacked/2015/07/12/article2916554.ece</a>	ISRO commercial arm website hacked and the website was blocked within minutes after its homepage was found having weird content	Security, Preventive measure	July	2015
10	<a href="http://www.ibtimes.co.in/kickass-torrents-other-sites-get-blocked-by-google-chrome-warns-users-malware-attacks-639202">http://www.ibtimes.co.in/kickass-torrents-other-sites-get-blocked-by-google-chrome-warns-users-malware-attacks-639202</a>	Kickass Torrents, other sites get blocked by Google for containing harmful programs by malware attacks	Security, Preventive measure	July	2015
11	<a href="http://timesofindia.indiatimes.com/tech/tech-news/Government-orders-ISPs-to-block-websites-with-inflammatory-content/articleshow/48223714.cms">http://timesofindia.indiatimes.com/tech/tech-news/Government-orders-ISPs-to-block-websites-with-inflammatory-content/articleshow/48223714.cms</a>	Government of India blocked 40 webpages which contained inflammatory content relating to minority community	inflammatory content	July	2015
12	<a href="http://articles.economictimes.indiatimes.com/2015-05-07/news/61902850_1_facebook-page-sfj-sikh-rights-group">http://articles.economictimes.indiatimes.com/2015-05-07/news/61902850_1_facebook-page-sfj-sikh-rights-group</a>	Gol has blocked the Facebook page "Sikhs for Justice in India" due to objectionable content	inflammatory content	October	2015
13	<a href="http://timesofindia.indiatimes.com/tech/tech-news/India-blocks-two-ISIS-owned-websites/articleshow/49353351.cms">http://timesofindia.indiatimes.com/tech/tech-news/India-blocks-two-ISIS-owned-websites/articleshow/49353351.cms</a>	Indian Cybersecurity body CERT-In has blocked two websites belonging to ISIS on the request of IB and police agencies, which were spreading outfit's propaganda. Website has details of how to make bombs and training modules of the outfit	security, Preventive measure	October	2015
14	<a href="http://indiatoday.intoday.in/story/classified-1962-india-china-war-henderson-brooks-bhagat-report-posted-online-blocked/1/349957.html">http://indiatoday.intoday.in/story/classified-1962-india-china-war-henderson-brooks-bhagat-report-posted-online-blocked/1/349957.html</a>	Indian Army report, which analyses the causes of the defeat during India-China war in 1962 was published by Australian journalist in his website, was blocked for being controversial and sensitive	Preventive measure	March	2014
15	<a href="http://www.medianama.com/2014/04/223-act-broadband-torrent-sites-bangalore/">http://www.medianama.com/2014/04/223-act-broadband-torrent-sites-bangalore/</a>	Blocked Torrent website and few other websites without a court order in Bangalore by ACT broadband	Online Piracy	April	2014

Sl. No	Links	Reasons	Keywords	Month	Year
16	<a href="http://www.moneylife.in/article/qnetin-dia-in-and-qnets-other-websites-blocked-on-court-order/37489.html">http://www.moneylife.in/article/qnetin-dia-in-and-qnets-other-websites-blocked-on-court-order/37489.html</a>	CERT India has blocked the websites of Multi-level marketing operators due to multi-crore MLM scam	Transparency	May	2014
17	<a href="http://www.abplive.in/others/air-india-website-blocked-by-few-sites-in-india-abroad-7322">http://www.abplive.in/others/air-india-website-blocked-by-few-sites-in-india-abroad-7322</a>	Air India website blocked due to massive booking when the special fare was offered	Traffic	August	2014
18	<a href="http://www.medianama.com/2014/08/223-india-england-cricket-2014-live-streaming-website-block/">http://www.medianama.com/2014/08/223-india-england-cricket-2014-live-streaming-website-block/</a>	107 websites have been blocked when Delhi High Court passed John Doe order for violating its rights to broadcast content from India-England cricket series	Online Piracy	August	2014
19	<a href="http://articles.economictimes.indiatimes.com/2014-08-23/news/53139443_1_payment-gateway-place-additional-authentication-card-security">http://articles.economictimes.indiatimes.com/2014-08-23/news/53139443_1_payment-gateway-place-additional-authentication-card-security</a>	Reserve bank of India has blocked credit card transactions in e-commerce	Security, Preventive measure	August	2014
20	<a href="http://thenextweb.com/in/2014/12/31/vimeo-github-30-sites-blocked-india-content-isis/#gref">http://thenextweb.com/in/2014/12/31/vimeo-github-30-sites-blocked-india-content-isis/#gref</a>	Department of Telecom Has blocked 32 websites over content from ISIS	Anti-India content	December	2014
21	<a href="http://www.medianama.com/2014/12/223-india-blocks-imgur/">http://www.medianama.com/2014/12/223-india-blocks-imgur/</a>	As per the instruction from the DoT, ISPs have blocked the image sharing site Imgur	Not Disclosed	December	2014
22	<a href="http://www.medianama.com/2014/02/223-uploaded-net-blocked-again/">http://www.medianama.com/2014/02/223-uploaded-net-blocked-again/</a>	File hosting and sharing website has been blocked by ISP as per the order from DoT	Not Disclosed	February	2014
23	<a href="http://www.news18.com/news/india/court-blocks-tamil-assange-shankars-website-savukku-net-671216.html">http://www.news18.com/news/india/court-blocks-tamil-assange-shankars-website-savukku-net-671216.html</a>	Tamil website blocked as per the orders of Madras High court	Censorship	February	2014
24	<a href="http://timesofindia.indiatimes.com/tech/tech-news/Over-200-sites-blocked-in-India-after-Sony-piracy-complaint-Report/articleshow/37961214.cms">http://timesofindia.indiatimes.com/tech/tech-news/Over-200-sites-blocked-in-India-after-Sony-piracy-complaint-Report/articleshow/37961214.cms</a>	Delhi High court orders ISPs to block 219 websites following a complaint alleging online piracy during the FIFA world Cup	Online Piracy	July	2014

Sl. No	Links	Reasons	Keywords	Month	Year
25	<a href="http://www.medianama.com/2013/03/223-bizarre-indias-department-of-telecom-blocks-wedding-album-on-facebook/">http://www.medianama.com/2013/03/223-bizarre-indias-department-of-telecom-blocks-wedding-album-on-facebook/</a>	Wedding album in Facebook page blocked by Telecom Department. It can't be accessed by BSNL	Not Disclosed	March	2013
26	<a href="http://www.medianama.com/2013/04/223-why-is-care-org-blocked-on-vodafone-spectranet/">http://www.medianama.com/2013/04/223-why-is-care-org-blocked-on-vodafone-spectranet/</a>	Website of a non-profit organisation blocked by the DoT	Not Disclosed	April	2013
27	<a href="http://www.medianama.com/2013/05/223-zedge-app-blocked-india/">http://www.medianama.com/2013/05/223-zedge-app-blocked-india/</a>	Zedge, a mobile customisation app and the website have been blocked by the DoT and Indian High Court saying that many users in India are unable to use its app and websites.	Not Disclosed	May	2013
28	<a href="http://www.medianama.com/2013/06/223-dot-orders-isps-to-block-39-websites-that-allow-sharing-of-pornographic-content/">http://www.medianama.com/2013/06/223-dot-orders-isps-to-block-39-websites-that-allow-sharing-of-pornographic-content/</a>	Department of Telecommunication has directed ISPs to block 39 websites that allow sharing of pornographic contents after the gang rape of a girl and the rape of a five year old girl in Delhi.	Women Security	June	2013
29	<a href="http://www.medianama.com/2013/06/223-filesharing-sites-uploaded-net-ul-to-stoorage-blog-on-politics-blocked-on-some-isps/">http://www.medianama.com/2013/06/223-filesharing-sites-uploaded-net-ul-to-stoorage-blog-on-politics-blocked-on-some-isps/</a>	A few websites have been blocked by some ISPs in India	Not Disclosed	June	2013
30	<a href="http://www.medianama.com/2013/12/223-dhoom-3-website-download-block/?utm_source=feedburner&amp;utm_medium=feed&amp;utm_paign=-Feed%3A+medianama+(Medianama%3A+Digital+Media+In+India)">http://www.medianama.com/2013/12/223-dhoom-3-website-download-block/?utm_source=feedburner&amp;utm_medium=feed&amp;utm_paign=-Feed%3A+medianama+(Medianama%3A+Digital+Media+In+India)</a>	ISPs are asked to block the video sharing websites to prevent streaming the Hindi movie Dhoom 3	Online Piracy	December	2013
31	<a href="http://timesofindia.indiatimes.com/india/ATS-blocks-Free-Kashmir-webpage/articleshow/27550388.cms">http://timesofindia.indiatimes.com/india/ATS-blocks-Free-Kashmir-webpage/articleshow/27550388.cms</a>	ATS blocked the Tehreek-e-Taliban Hindustan page on a social networking site as it was "dangerous and sensitive and against national interests"	preventive, security	December	2013

Sl. No	Links	Reasons	Keywords	Month	Year
32	<a href="http://www.ndtv.com/india-news/government-to-appeal-against-court-order-blocking-iipm-websites-513832">http://www.ndtv.com/india-news/government-to-appeal-against-court-order-blocking-iipm-websites-513832</a>	The Gwalior court asked Director General of Indian Computer Emergency Response Team to block 78 webpages publishing defamatory material about IIPM institute	defamatory content	February	2013
33	<a href="http://www.medianama.com/2013/02/223-dot-blocks-55-urls-afzal-guru/">http://www.medianama.com/2013/02/223-dot-blocks-55-urls-afzal-guru/</a>	Department of Telecom issued orders to block 55 URLs related Afzal Guru	Censorship	February	2013
34	<a href="http://www.medianama.com/2013/07/223-ripoffreport-block-india/">http://www.medianama.com/2013/07/223-ripoffreport-block-india/</a>	Consumer complaint site blocked in India. Sites being used to inhibit freedom of speech India	Censorship	July	2013
35	<a href="http://www.medianama.com/2012/03/223-india-music-block/">http://www.medianama.com/2012/03/223-india-music-block/</a>	Indian Music Industry has obtained Calcutta high court order to block 104 musical sites to combat piracy	Online Piracy	March	2012
36	<a href="http://timesofindia.indiatimes.com/city/chennai/Video-sharing-sites-blocked-on-court-order/articleshow/13234623.cms">http://timesofindia.indiatimes.com/city/chennai/Video-sharing-sites-blocked-on-court-order/articleshow/13234623.cms</a>	Madras High court orders ISPs to block video sharing websites to take preventive action against those who might create pirated version of the upcoming movies and put them up on the Internet.	Online Piracy	April	2012
37	<a href="http://www.medianama.com/2012/05/223-dailymotion-blocked-in-india-on-rcom-airtel-rcom-block-bookmarking-site-xmarks/">http://www.medianama.com/2012/05/223-dailymotion-blocked-in-india-on-rcom-airtel-rcom-block-bookmarking-site-xmarks/</a>	Reliance communication has blocked Daily motion website as per instructions from DoT	Not Disclosed	May	2012
38	<a href="https://kafila.org/2012/05/26/list-of-websites-blocked-in-india/">https://kafila.org/2012/05/26/list-of-websites-blocked-in-india/</a>	A list of 434 website were hacked and blocked by 'anonymous' hacker to protest Internet censorship in India	Censorship	May	2012
39	<a href="http://www.medianama.com/2012/06/223-gangs-of-wasseypur-torrent-block/">http://www.medianama.com/2012/06/223-gangs-of-wasseypur-torrent-block/</a>	Delhi High court and Madras High Court have ordered blocking access to video sharing websites	Online Piracy	June	2012

Sl. No	Links	Reasons	Keywords	Month	Year
40	<a href="http://cis-india.org/news/times-of-india-aug-24-2012-govt-orders-blocking-of-300-specific-urls-including-16-twitter-accounts">http://cis-india.org/news/times-of-india-aug-24-2012-govt-orders-blocking-of-300-specific-urls-including-16-twitter-accounts</a>	Department of Telecommunication has blocked 300 URLs where communally sensitive content was posted.	Sensitive content	August	2012
41	<a href="http://in.reuters.com/article/india-violence-Internet-twitter-as-sam-fa-idINDEE87K09Z20120821">http://in.reuters.com/article/india-violence-Internet-twitter-as-sam-fa-idINDEE87K09Z20120821</a>	Government of India has blocked 245 webpages which contained doctored videos and images to avoid spread of rumours. It has been repeated a few times in the same month	Preventive, Spreading of rumours	August	2012
42	<a href="http://thenextweb.com/in/2012/08/25/indian-isp-blocks-wordpress/#gref">http://thenextweb.com/in/2012/08/25/indian-isp-blocks-wordpress/#gref</a>	Indian ISP blocked website on the government's request to censor websites.	Censorship	August	2012
43	<a href="http://archive.indianexpress.com/news/blocked-for-violence-website-to-sue-govt/994020/">http://archive.indianexpress.com/news/blocked-for-violence-website-to-sue-govt/994020/</a>	Website blocked by the authorities who found objectionable content in it.	Precautionary, security, Objectionable content	August	2012
44	<a href="http://www.thehindu.com/todays-paper/tp-national/tp-tamilnadu/high-court-restrains-Internet-service-providers/article3715136.ece">http://www.thehindu.com/todays-paper/tp-national/tp-tamilnadu/high-court-restrains-Internet-service-providers/article3715136.ece</a>	Madras High Court has ordered blocking of all URLs carrying the images of the Tamil movie to prevent infringing on copyrights of the same.	Online Piracy	August	2012
45	<a href="http://www.ndtv.com/india-news/cartoonist-aseem-trivedi-held-on-sedition-charge-for-mocking-the-constitution-498874">http://www.ndtv.com/india-news/cartoonist-aseem-trivedi-held-on-sedition-charge-for-mocking-the-constitution-498874</a>	A cartoonist from Kanpur has been remanded in police custody for allegedly posting seditious content on his website. The website has also been blocked by the authorities	objectionable content	September	2012
46	<a href="http://indianexpress.com/article/india/crime/uk-radical-plans-delhi-march-for-sharia-cops-alert-website-blocked/">http://indianexpress.com/article/india/crime/uk-radical-plans-delhi-march-for-sharia-cops-alert-website-blocked/</a>	The police have blocked website of Sharia due to highly inflammable content.	preventive	February	2012
47	<a href="http://www.medianama.com/2012/07/223-domain-marketplace-sedo-co-uk-blocked-in-india/">http://www.medianama.com/2012/07/223-domain-marketplace-sedo-co-uk-blocked-in-india/</a>	Sedo.co.uk, the popular domain marketplace has blocked in India on directions issued by DoT	Not Disclosed	July	2012

## II. Network Shutdowns

The number of Internet mobile application blackouts in India has been on the rise over the last few years. There have been over 60 network disconnections since 2012. These network shutdowns have affected free speech, freedom of association and freedom of assembly and access to information, among other things. All shutdowns were under the same provision of law – Section 144 of the Code of Criminal Procedure, 1973 (CrPC), and Section 69A of The Information Technology Act, 2000. Section 144, CrPC empowers the State apparatus to order blocking of access to data services and Section 69A, IT Act can be used to block certain websites.

In 2015, there were 15 network shutdown incidents. There were five network shutdowns in 2013 and 2014 each. Meanwhile, 2016 have seen 32 incidents of network shutdowns in India.

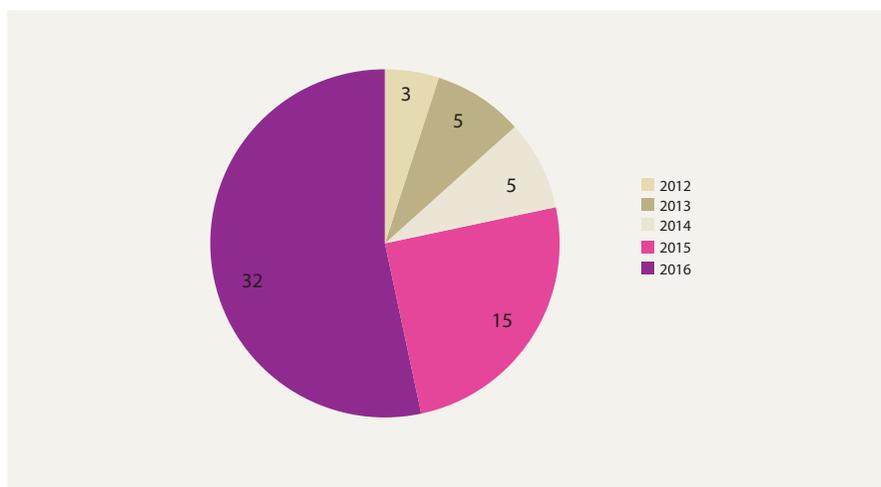


Figure 7 : Number of Internet Shutdowns

Since September 2015, there have been at least 34 such bans in the country. More than 18 such cases of shutdowns occurred in Jammu and Kashmir. Authorities cited reasons of terrorist attacks, social unrest, and attempts to curb social media rumours for these shutdowns. Srinagar witnessed continuous mobile and Internet services shutdowns for more than 100 days following the killing of militant Burhan Wani by security forces<sup>61</sup>. Restrictions on mobile Internet were placed in districts of Pulwama and in the towns of Ananathnag, Shopian, Pulgam and Sopore. Mobile Internet services were cut off in Jammu and neighbouring districts following violent protests in the region over a temple desecration in June.

Internet services were suspended in five districts in Kashmir in April 2016 for an indefinite period due to protests over the death of four people in clashes with security forces. In September 2015, Jammu and

61. The Indian Express News Report, “Kashmir unrest enters 100th day, mobile Internet remains suspended”; <http://indianexpress.com/article/india/india-news-india/kashmir-unrest-enters-100th-day-mobile-Internet-remains-suspended-3085614/>

Kashmir suspended Internet services for two days following apprehensions of violence in the state in light of the ban on the sale of beef in the state.

After Jammu & Kashmir, Gujarat has seen the most number of Internet shutdown cases — eight of them — since September 2015. Mobile Internet services were cut off in Mehsana, Ahmedabad, Surat, and Rajkot following demonstrations by the Patel/Patidar community<sup>62</sup>. In 2015, Gujarat witnessed a similar Internet shutdown in Vadodara region following communal unrest over a Facebook post. The state government also blocked Internet services for four hours to prevent misuse of mobile phones during recruitment exam<sup>63</sup>.

There were five shutdowns on mobile and Internet in Rajasthan and four in Haryana in 2016. These shutdowns were not limited to specific locations within the state, and sometimes affected an entire city. State authorities in Haryana had blocked mobile Internet in certain districts after a Jat community protest for reservations turned violent. Affected districts included Rohtak, Sonipat and Jhajjar<sup>64</sup>.

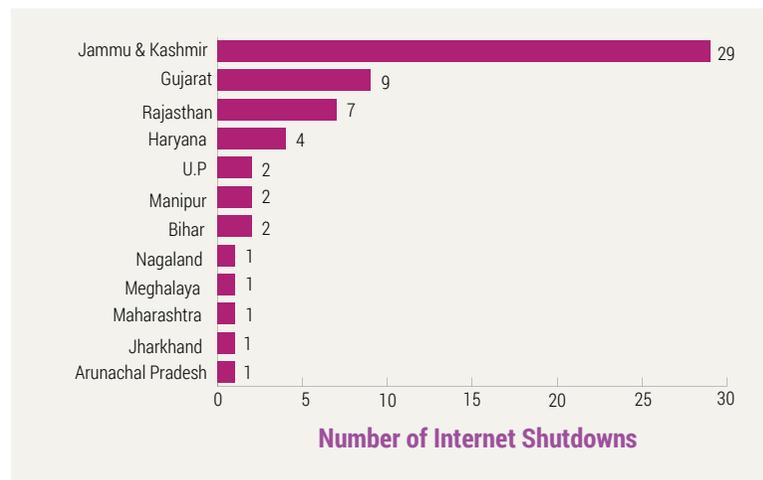


Fig 8. State-wise number of shutdowns

62. Medianama article, “Mobile Internet services cut off in Gujarat districts & Bokaro, Jharkhand ”; <http://www.medianama.com/2016/04/223-mobile-Internet-ban-gujarat-bokaro/>

63. Times of India News Report, “To beat exam cheats, Gujarat to block mobile Internet today”; <http://timesofindia.indiatimes.com/india/To-beat-exam-cheats-Gujarat-to-block-mobile-Internet-today/articleshow/51173461.cms>

64. The Indian Express News Report “Haryana: Sonipat DM bans mobile Internet service in the district ahead of proposed Jat stir”; <http://indianexpress.com/article/india/india-news-india/haryana-jat-quota-agitation-sonipat-mobile-Internet-service-banned-2835078/>

## Legal and Regulatory Framework

1. Section 144 of the Code of Criminal Procedure, 1973 (“CrPC”) empowers the State government machinery to impose a temporary ban. The provision of shutting down the Internet completely has become an issue of concern as it violates the freedom of speech guaranteed under Article 19(1) (a) of the constitution of India. The basis on which Section 144 can be invoked are: a) Sufficient grounds, b) Requirement for immediate prevention and, c) Speed remedy to prevent a likely obstruction, annoyance or injury to any person or danger to human life or safety, or a disturbance of the public tranquility, or a riot, or an affray.
2. Section 69A of The Information Technology Act, 2000 covers blocks to Internet access, and since it is a special law dealing with the Internet, it prevails over the general Code of Criminal Procedure.

A Special Leave Petition (SLP) challenged the use of this provision for restricting access to Internet and mobile networks; however, the Apex Court dismissed the petition and upheld the power of state government under Section 144 to suspend Internet services by stating that the use of such mechanisms become necessary for law and order situation.

Though the Telegraph Act (1885) and Telecom Regulatory Authority of India Act (2000)<sup>65</sup> have specified circumstances in which the government can submit shutdown requests to TSPs and there is no requirement that an independent body be constituted to approve or reject shutdown requests. The law does not specify the circumstances in which TSP can discuss requests or claim compensation for loss of revenue which are especially important because the requests are mired in claims of ‘national security’.

Apar Gupta, a lawyer who represented student-activist Gaurav Sureshbhai Vyas, stated in an interview, *“mobile network shut downs are disproportionate to law and orders. Mobile shut downs can lead to wider panic. Today, Internet is not only meant for sharing information but also to entertain. There are legislatives as Internet is used for financial transaction, travel, medical records etc. It has also led to higher degree of public emergency.”*

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65. Telecom Regulatory Authority of Indian Act (2000); [http://dot.gov.in/sites/default/files/Unified%20Licence\\_0.pdf](http://dot.gov.in/sites/default/files/Unified%20Licence_0.pdf)

Table 2 shows network shutdown cases occurred in the country from 2012 to Dec. 2016

Sl. No	Links	Details	Date	Year	State
1	<a href="https://www.telegraphindia.com/1160812/jsp/front-page/story_101982.jsp#.WPRk2PmGPiV">https://www.telegraphindia.com/1160812/jsp/front-page/story_101982.jsp#.WPRk2PmGPiV</a>	Mobile Internet services were cut off in Arunachal Pradesh since two days after feared law and order situation in the state's capital following the suicide of former chief minister	12th Aug	2016	Arunachal Pradesh
2	<a href="http://economictimes.indiatimes.com/news/politics-and-nation/communal-tension-grips-6-bihar-districts/article-show/54867746.cms">http://economictimes.indiatimes.com/news/politics-and-nation/communal-tension-grips-6-bihar-districts/article-show/54867746.cms</a>	Mobile and broadband Internet services were disconnected from 15th October to prevent misuse of social media platforms due to violent communal clashes in the area. They were restored in Bhojpur on 18th October, 2016, whereas East Champaran was connected back to Internet on 20th October, 2016	15th Oct	2016	Bihar
3	<a href="http://timesofindia.indiatimes.com/city/patna/Section-144-imposed-Internet-banned-in-Saran-after-deity-desecration-video-goes-viral/articleshow/53571544.cms">http://timesofindia.indiatimes.com/city/patna/Section-144-imposed-Internet-banned-in-Saran-after-deity-desecration-video-goes-viral/articleshow/53571544.cms</a>	Due to communal clashes in the Saran district after a video of the desecration of Hindu deities went viral on social media, all Internet services were shut down in the district under Section 144 of CrPC on 6th August, 2016 to prevent spread of rumours	6th Aug	2016	Bihar
4	<a href="http://indianexpress.com/article/india/india-news-india/gujarat-curfew-imposed-in-mehsana-as-patels-rally-turns-violent-lalji-patel-injured-2757681/">http://indianexpress.com/article/india/india-news-india/gujarat-curfew-imposed-in-mehsana-as-patels-rally-turns-violent-lalji-patel-injured-2757681/</a>	Mobile Internet services suspended in Ahmedabad, Mehsana, Surat and Rajkot, after a call to court arrest given by Patidar leaders turned violent	17th April	2016	Gujarat
5	<a href="http://deshgujarat.com/2016/02/26/prohibitory-orders-and-mobile-Internet-ban-in-mahesana-on-february-28/">http://deshgujarat.com/2016/02/26/prohibitory-orders-and-mobile-Internet-ban-in-mahesana-on-february-28/</a>	District administration in Mahesana ordered a ban on using mobile Internet and social networking sites under section 144 of the IPC and to hold a Patidar Women's conference	26th Feb	2016	Gujarat
6	<a href="http://zeenews.india.com/news/india/mobile-Internet-services-blocked-in-gujarat-know-why_1860264.html">http://zeenews.india.com/news/india/mobile-Internet-services-blocked-in-gujarat-know-why_1860264.html</a>	Mobile Internet services were blocked for four hours across Gujarat to prevent misuse of cell phones during Revenue Talatis (Accountants) Recruitment Exam in the state	28th Feb	2016	Gujarat

Sl. No	Links	Details	Date	Year	State
7	<a href="http://indianexpress.com/article/india/india-news-india/mobile-Internet-services-banned-in-rajkot-as-patidar-threat-looms/">http://indianexpress.com/article/india/india-news-india/mobile-Internet-services-banned-in-rajkot-as-patidar-threat-looms/</a>	The Rajkot administration banned mobile Internet services in the district, ahead of the third India versus South Africa One-day International, after Patel quota stir leader Hardik Patel threatened to stage a protest at the Khanderi stadium during the match	17th Oct	2015	Gujarat
8	<a href="http://indianexpress.com/article/india/gujarat/gujarat-Internet-services-in-godhra-suspended-for-24-hours/">http://indianexpress.com/article/india/gujarat/gujarat-Internet-services-in-godhra-suspended-for-24-hours/</a>	Mobile Internet services were suspended in Godhra for a period of 24 hours, after a derogatory message against Islam made rounds on the mobile social application WhatsApp as a precautionary measure	28th Sept	2015	Gujarat
9	<a href="http://www.newindianexpress.com/nation/Hardik-Arrested-in-Surat-Mobile-Internet-Banned/2015/09/19/article3036722.ece">http://www.newindianexpress.com/nation/Hardik-Arrested-in-Surat-Mobile-Internet-Banned/2015/09/19/article3036722.ece</a>	The Gujarat state administration banned mobile Internet services to curb spread of rumours	19th Sept	2015	Gujarat
10	<a href="http://timesofindia.indiatimes.com/city/surat/Internet-banned-in-Navsari-from-midnight/article-show/48935102.cms">http://timesofindia.indiatimes.com/city/surat/Internet-banned-in-Navsari-from-midnight/article-show/48935102.cms</a>	Internet services were blocked in Navsari district of south Gujarat as a precautionary action prior to the Reservation Quota Rally organized by Patidar Anamat Andolan Samiti (PAAS)	12th Sept	2015	Gujarat
	<a href="http://articles.economictimes.indiatimes.com/2015-09-02/news/66144045_1_state-wide-ban-mobile-Internet-social-media">http://articles.economictimes.indiatimes.com/2015-09-02/news/66144045_1_state-wide-ban-mobile-Internet-social-media</a>	Police lifted the ban on mobile Internet, social media and SMS services in the wake of violence during the Patel stir in various parts of State. It said that the ban was to prevent anti-social elements from using the social media platform to spread rumours	25th Aug	2015	Gujarat
12	<a href="http://timesofindia.indiatimes.com/city/vadodara/Internet-services-blocked-in-Vadodara-after-riots/article-show/43674499.cms">http://timesofindia.indiatimes.com/city/vadodara/Internet-services-blocked-in-Vadodara-after-riots/article-show/43674499.cms</a>	To control rumours in the city, the city police banned mobile Internet services including cellular data services, including 2G and 3G Internet services barring landline broadband, group SMS as well as MMS services.	27th Sept	2014	Gujarat

Sl. No	Links	Details	Date	Year	State
13	<a href="http://indianexpress.com/article/india/india-news-india/jat-reservation-agitation-mobile-Internet-haryana/">http://indianexpress.com/article/india/india-news-india/jat-reservation-agitation-mobile-Internet-haryana/</a>	Mobile Internet services suspended at many places in Haryana for possible renewal of the Jat quota agitation that had led to widespread violence	18th March	2016	Haryana
14	<a href="http://indianexpress.com/article/india/india-news-india/rohtak-jat-reservation-mobile-Internet-blocked-haryana/">http://indianexpress.com/article/india/india-news-india/rohtak-jat-reservation-mobile-Internet-blocked-haryana/</a>	Mobile Internet services were suspended by Rohtak administration in Rohtak and Jhajjar following violent protests by Jats in Haryana demanding reservation in government jobs and educational institutions under OBC category	19th Feb	2016	Haryana
15	<a href="http://indianexpress.com/article/india/india-news-india/haryana-jat-quota-agitation-sonapat-mobile-Internet-service-banned-2835078/">http://indianexpress.com/article/india/india-news-india/haryana-jat-quota-agitation-sonapat-mobile-Internet-service-banned-2835078/</a>	Officials issued order banning mobile Internet service in the district in view of Jat agitation	4th June	2016	Haryana
16	<a href="http://indianexpress.com/article/india/india-news-india/jat-reservation-live-updates-protest-haryana-hisar-rohtak-jind-ambala-2835462/">http://indianexpress.com/article/india/india-news-india/jat-reservation-live-updates-protest-haryana-hisar-rohtak-jind-ambala-2835462/</a>	Internet services were blocked in some parts of Haryana to check rumour & false publicity on security arrangements to deal with Jat agitation followed by tensions in the state	5th June	2016	Haryana
17	<a href="http://www.hindustantimes.com/india/handwara-firing-mobile-Internet-services-suspended-in-Jammu-&amp;Kashmir/story-iPQHs3vdmWx7w0uCGK8NJ.html">http://www.hindustantimes.com/india/handwara-firing-mobile-Internet-services-suspended-in-Jammu-&amp;Kashmir/story-iPQHs3vdmWx7w0uCGK8NJ.html</a>	Mobile Internet services were suspended and restrictions imposed in parts of Jammu & Kashmir to prevent escalation of protests triggered after security forces fired at a group protesting the alleged molestation of a school girl by an Indian Army soldier	14th April	2016	Jammu & Kashmir
18	<a href="http://www.dnaindia.com/india/report-kashmir-unrest-broadband-Internet-services-suspended-2244766">http://www.dnaindia.com/india/report-kashmir-unrest-broadband-Internet-services-suspended-2244766</a>	After the disconnect from mobile Internet services since 9th July, 2016, broadband Internet services were also suspended in the Jammu & Kashmir valley on 13th August, 2016 as a precautionary measure to prevent rumour mongering due to unrest between the protestors and the security forces	13th Aug	2016	Jammu & Kashmir

Sl. No	Links	Details	Date	Year	State
19	<a href="http://indianexpress.com/article/india/india-news-india/Internet-services-suspended-in-jammu-amid-mounting-tension-in-chenab-valley-2954958/">http://indianexpress.com/article/india/india-news-india/Internet-services-suspended-in-jammu-amid-mounting-tension-in-chenab-valley-2954958/</a>	Due to bandhs being declared in the Chenab valley to show solidarity with protests being undertaken by Jammu & Kashmiris, mobile Internet services were suspended in Jammu region on 5th August, 2016	5th Aug	2016	Jammu & Kashmir
20	<a href="https://www.theguardian.com/technology/2016/jul/19/facebook-under-fire-censoring-Jammu&amp;Kashmir-posts-accounts">https://www.theguardian.com/technology/2016/jul/19/facebook-under-fire-censoring-Jammu &amp; Kashmir-posts-accounts</a>	Jammu & Kashmir unrest has been met with a complete blackout of information both offline and online. Facebook actively removed any content relating to the slain rebel Burhan Wani's funeral or any post that stands in solidarity with his movement. Jammu & Kashmiri bloggers living and posting from America and UK faced the same issue	19th Jul	2016	Jammu & Kashmir
21	<a href="http://www.greaterkashmir.com/news/kashmir/kashmir-unrest-broadband-slow-subscribers-irked/224220.html">http://www.greaterkashmir.com/news/kashmir/kashmir-unrest-broadband-slow-subscribers-irked/224220.html</a>	The Government reduced the bandwidth of broadband. Due to this Internet in Jammu & Kashmir is working at very slow speed	29th Jul	2016	Jammu & Kashmir
22	<a href="http://indianexpress.com/article/india/india-news-india/mobile-Internet-services-suspended-in-kashmir-2902579/">http://indianexpress.com/article/india/india-news-india/mobile-Internet-services-suspended-in-kashmir-2902579/</a>	Following the killing of Burhan Wani, Jammu & Kashmir valley experienced a suspension of mobile Internet services to check the spread of rumours by anti-social elements	9th Jul	2016	Jammu & Kashmir
23	<a href="http://telecom.economic-times.indiatimes.com/news/private-telecom-firms-bsnl-asked-to-suspend-services-in-jk/53220299">http://telecom.economic-times.indiatimes.com/news/private-telecom-firms-bsnl-asked-to-suspend-services-in-jk/53220299</a>	All private telecom operators in Jammu and Kashmir have been asked to suspend their services for a day as a precautionary measure in the wake of widespread violence in the state	15th July	2016	Jammu & Kashmir
24	<a href="http://indianexpress.com/article/india/india-news-india/jammu-temple-row-mobile-Internet-services-restored-across-state-2861163/">http://indianexpress.com/article/india/india-news-india/jammu-temple-row-mobile-Internet-services-restored-across-state-2861163/</a>	Mobile Internet facility was restored across the state after three days as the situation in Jammu city and its surrounding areas remained normal	18th Jun	2016	Jammu & Kashmir

Sl. No	Links	Details	Date	Year	State
25	<a href="http://www.thehindu.com/news/national/other-states/Jammu-goes-offline-ahead-of-controversial-wrestling-event/article14393564.ece">http://www.thehindu.com/news/national/other-states/Jammu-goes-offline-ahead-of-controversial-wrestling-event/article14393564.ece</a>	Mobile Internet services were suspended in Jammu region ahead of a wrestling match, the venue for which is disputed between two communities, and experienced violence in 2014 as well	22nd Jun	2016	Jammu & Kashmir
26	<a href="http://www.greater-kashmir.com/news/pir-panjal/mobile-Internet-services-snapped-in-poonch/221112.html">http://www.greater-kashmir.com/news/pir-panjal/mobile-Internet-services-snapped-in-poonch/221112.html</a>	Over a controversial issue, mobile Internet services were suspended in the Poonch district on 22nd June, 2016 on operational and security grounds and to prevent law and order situations	22nd Jun	2016	Jammu & Kashmir
27	<a href="http://indianexpress.com/article/india/india-news-india/no-Internet-in-jammu-districts-unrest-kashmir-3030006/">http://indianexpress.com/article/india/india-news-india/no-Internet-in-jammu-districts-unrest-kashmir-3030006/</a>	Ahead of Eid celebrations, broadband Internet services were suspended in Jammu & Kashmir on 12th September, 2016 as a precautionary measure in light of the ongoing violence in the region. However, mobile Internet services remain suspended since 9th July, 2016	12th Sept	2016	Jammu & Kashmir
28	<a href="http://www.firstpost.com/india/mobile-Internet-services-blocked-in-Jammu-&amp;Kashmir-for-pm-modis-rally-in-srinagar-2498760.html">http://www.firstpost.com/india/mobile-Internet-services-blocked-in-Jammu &amp; Kashmir-for-pm-modis-rally-in-srinagar-2498760.html</a>	Mobile Internet services were blocked as a precautionary measure of Prime Minister Narendra Modi's rally in Srinagar. Only BSNL broadband was working	7th Nov	2015	Jammu & Kashmir
29	<a href="http://www.dnaindia.com/india/report-beef-ban-mobile-Internet-services-cut-in-jammu-after-tension-in-udhampur-2132781">http://www.dnaindia.com/india/report-beef-ban-mobile-Internet-services-cut-in-jammu-after-tension-in-udhampur-2132781</a>	Mobile Internet services were suspended as authorities feared misuse of social media after tension gripped Udhampur district on beef ban	8th Oct	2015	Jammu & Kashmir
30	<a href="http://indianexpress.com/article/india/india-others/to-avoid-tension-during-eid-ul-zuha-govt-ban-Internet-in-jk-for-two-days-from-tomorrow/">http://indianexpress.com/article/india/india-others/to-avoid-tension-during-eid-ul-zuha-govt-ban-Internet-in-jk-for-two-days-from-tomorrow/</a>	To prevent the misuse of social networking sites, all the Internet service providers were asked to block mobile Internet services in the Jammu & Kashmir Valley to control the beef controversy in view of Eid celebrations	25th Sept	2015	Jammu & Kashmir

Sl. No	Links	Details	Date	Year	State
31	<a href="http://articles.economictimes.indiatimes.com/2015-08-15/news/65525213_1_mobile-Internet-services-independence-day-bakshi-stadium">http://articles.economictimes.indiatimes.com/2015-08-15/news/65525213_1_mobile-Internet-services-independence-day-bakshi-stadium</a>	Mobile phone and mobile Internet services were blocked as a precautionary measure in wake of the spurt in militant activities in the Jammu & Kashmir Valley on Indian independence day	15th Aug	2015	Jammu & Kashmir
32	<a href="http://zeenews.india.com/news/jammu-and-Kashmir/Internet-blocked-temporarily-due-to-sikh-police-clash-in-jammu_1607966.html">http://zeenews.india.com/news/jammu-and-Kashmir/Internet-blocked-temporarily-due-to-sikh-police-clash-in-jammu_1607966.html</a>	In wake of the clashes between the Sikh community and the state police, the Jammu administration had shut down Internet services to maintain peace	5th June	2015	Jammu & Kashmir
33	<a href="http://www.livemint.com/Politics/r14LLwxLZE8sgMGVHTse0M/Curfew-like-restrictions-in-Jammu-&amp;Kashmir-Valley-mobile-Internet.html">http://www.livemint.com/Politics/r14LLwxLZE8sgMGVHTse0M/Curfew-like-restrictions-in-Jammu-&amp;Kashmir-Valley-mobile-Internet.html</a>	Mobile Internet services were suspended as precautionary measures in Jammu & Kashmir to curb the spread of "rumours". Curfew-like restrictions were imposed in most parts of Jammu & Kashmir Valley to foil separatists' plans to hold protests to observe the first death anniversary of Parliament-attack convict Mohd Afzal Guru	9th Feb	2014	Jammu & Kashmir
34	<a href="http://economictimes.indiatimes.com/news/politics-and-nation/mobile-phone-services-hit-in-kashmir-valley/articleshow/29396681.cms?intenttarget=no">http://economictimes.indiatimes.com/news/politics-and-nation/mobile-phone-services-hit-in-kashmir-valley/articleshow/29396681.cms?intenttarget=no</a>	Mobile phone services were suspended across the Kashmir Valley as part of security precautions on Republic Day	26th Jan	2014	Jammu & Kashmir
35	<a href="http://www.business-standard.com/article/pti-stories/defence-ministry-seeks-selective-ban-on-mobile-Internet-in-j-k-114031100760_1.html">http://www.business-standard.com/article/pti-stories/defence-ministry-seeks-selective-ban-on-mobile-Internet-in-j-k-114031100760_1.html</a>	To prevent misuse of mobile phone services by terrorists, the Defence Ministry asked the Department of Telecom to selectively ban mobile Internet in some places considered 'hot spots' in Jammu and Kashmir	11th March	2014	Jammu & Kashmir
36	<a href="http://economictimes.indiatimes.com/news/politics-and-nation/mobile-services-temporarily-suspended-in-kashmir-valley/articleshow/40308174.cms?intenttarget=no">http://economictimes.indiatimes.com/news/politics-and-nation/mobile-services-temporarily-suspended-in-kashmir-valley/articleshow/40308174.cms?intenttarget=no</a>	Mobile Internet services were blocked as a part of a security protocol on the occasion of Independence Day on 15th August, 2014. The services were restored within a few hours after the official ceremony was completed	15th Aug	2014	Jammu & Kashmir

Sl. No	Links	Details	Date	Year	State
37	<a href="http://zeenews.india.com/news/jammu-and-kashmir/mobile-phone-services-suspended-in-kashmir_869121.html">http://zeenews.india.com/news/jammu-and-kashmir/mobile-phone-services-suspended-in-kashmir_869121.html</a>	Mobile telephone services were suspended all over Jammu and Kashmir as a precaution on Independence Day	15hAug	2013	Jammu & Kashmir
38	<a href="http://timesofindia.indiatimes.com/tech/tech-news/Internet-services-suspended-in-Jammu-&amp;Kashmir-Valley/article-show/21145412.cms">http://timesofindia.indiatimes.com/tech/tech-news/Internet-services-suspended-in-Jammu-&amp;Kashmir-Valley/article-show/21145412.cms</a>	Authorities suspended Internet services on mobile phones and via dongles in Jammu & Kashmir Valley as precautionary measure following the killing of four persons in firing in Jammu and Kashmir's Ramban district	18th July	2013	Jammu & Kashmir
39	<a href="http://economictimes.indiatimes.com/tech/Internet/mobile-Internet-services-restored-in-Jammu-&amp;Kashmir-valley/article-show/18527772.cms?intenttarget=no">http://economictimes.indiatimes.com/tech/Internet/mobile-Internet-services-restored-in-Jammu-&amp;Kashmir-valley/article-show/18527772.cms?intenttarget=no</a>	Mobile and Internet services were suspended in Jammu & Kashmir although there was no official word on the suspension of Internet connectivity. In order to prevent the spread of rumours, authorities asked cable operators to suspend broadcast of news channels too	9th Feb	2013	Jammu & Kashmir
40	<a href="http://www.deccanherald.com/content/307793/mobile-phone-services-suspended-kashmir.html">http://www.deccanherald.com/content/307793/mobile-phone-services-suspended-kashmir.html</a>	Ahead of Republic Day parades in Srinagar and elsewhere, mobile phone services were suspended across the Kashmir Valley as part of a security drill	26th Jan	2013	Jammu & Kashmir
41	<a href="http://economictimes.indiatimes.com/news/politics-and-nation/mobile-Internet-services-suspended-in-jammu-and-kashmir/articleshow/21759366.cms?intenttarget=no">http://economictimes.indiatimes.com/news/politics-and-nation/mobile-Internet-services-suspended-in-jammu-and-kashmir/articleshow/21759366.cms?intenttarget=no</a>	Mobile Internet services were suspended in Jammu and Kashmir following tension in Jammu region, which have been hit by communal riots	10th Aug	2013	Jammu & Kashmir
42	<a href="http://www.hindustantimes.com/india/mobile-phone-blackout-in-Jammu-&amp;Kashmir/story-UR9ES3PoX-4jnASE5FuCZQN.html">http://www.hindustantimes.com/india/mobile-phone-blackout-in-Jammu-&amp;Kashmir/story-UR9ES3PoX-4jnASE5FuCZQN.html</a>	Mobile phones across the Jammu & Kashmir Valley stopped functioning as service providers shut off connectivity as part of the high security drill for the 63rd Republic Day	26th Jan	2012	Jammu & Kashmir
43	<a href="https://india.blogs.nytimes.com/2012/09/21/telecom-services-blocked-to-curb-protests-in-kashmir/?_r=1">https://india.blogs.nytimes.com/2012/09/21/telecom-services-blocked-to-curb-protests-in-kashmir/?_r=1</a>	Mobile Internet services were suspended on 21st September 2012 till 5:00 pm owing to the protests over the movie 'Innocence of Muslims'	21st Sep	2012	Jammu & Kashmir

Sl. No	Links	Details	Date	Year	State
44	<a href="http://kashmirmediawatch.com/kashmir/mobile-service-suspended-in-kashmir-for-security-reasons/13187">http://kashmirmediawatch.com/kashmir/mobile-service-suspended-in-kashmir-for-security-reasons/13187</a>	Mobiles services were suspended in the Kashmir valley for security reasons on 66th Independence Day which was being celebrated throughout the country	15th Aug	2012	Jammu & Kashmir
45	<a href="http://www.firstpost.com/india/Jammu &amp; Kashmir-govt-orders-shutdown-of-all-Internet-services-except-bsnl-for-next-72-hours-3001464.html">http://www.firstpost.com/india/Jammu &amp; Kashmir-govt-orders-shutdown-of-all-Internet-services-except-bsnl-for-next-72-hours-3001464.html</a>	The Jammu and Kashmir government ordered shutdown of Internet services of all telecom networks and also mobile communications except of state-run BSNL for the next 72 hours as a precautionary measure because of the tense law and order situation in the state	12th Sept	2016	Jammu & Kashmir
46	<a href="http://timesofindia.indiatimes.com/city/ranchi/Internet-services-blocked-in-Bokaro-after-communal-tension/articleshow/51856786.cms">http://timesofindia.indiatimes.com/city/ranchi/Internet-services-blocked-in-Bokaro-after-communal-tension/articleshow/51856786.cms</a>	The district administration blocked Internet services in industrial town Bokaro, following communal clashes during Ramnavami celebrations	15th April	2016	Jharkhand
47	<a href="http://www.hindustantimes.com/india-news/mobile-Internet-services-suspended-in-protest-hit-nashik/story-chybNWRPW1j7m-H0onDhJON.html">http://www.hindustantimes.com/india-news/mobile-Internet-services-suspended-in-protest-hit-nashik/story-chybNWRPW1j7m-H0onDhJON.html</a>	Mobile Internet services and bulk SMS were blocked for two days on 10th October, 2016 in Nashik district as protests emerged over the alleged rape attempt of a 5 year old girl by a teenage boy	9th Oct	2016	Maharashtra
48	<a href="http://www.firstpost.com/india/manipur-Internet-services-shut-down-in-imphal-west-dist-following-three-blasts-3161912.html">http://www.firstpost.com/india/manipur-Internet-services-shut-down-in-imphal-west-dist-following-three-blasts-3161912.html</a>	Manipur state Cabinet decided to shut down Internet service in Imphal West district	18th Dec	2016	Manipur
49	<a href="http://scroll.in/article/753108/why-a-blanket-ban-on-the-Internet-in-troubled-manipur-is-not-a-good-idea">http://scroll.in/article/753108/why-a-blanket-ban-on-the-Internet-in-troubled-manipur-is-not-a-good-idea</a>	Access to Internet has been blocked in Manipur following violent protests	2nd Sep	2015	Manipur
50	<a href="http://www.theshillong-times.com/2015/10/13/admin-justifies-blocking-Internet/">http://www.theshillong-times.com/2015/10/13/admin-justifies-blocking-Internet/</a>	Internet services were banned in Meghalaya to ensure the protestors of the polls including pressure groups and the militants do not use Internet which is available even in mobiles to send messages through social networking sites to prevent people from voting	11th Oct	2015	Meghalaya

Sl. No	Links	Details	Date	Year	State
51	<a href="http://timesofindia.indiatimes.com/india/Nagaland-blocks-Internet-services-imposes-curfew-in-tense-Dimapur/articleshow/46497164.cms">http://timesofindia.indiatimes.com/india/Nagaland-blocks-Internet-services-imposes-curfew-in-tense-Dimapur/articleshow/46497164.cms</a>	The Nagaland government blocked all Internet and mobile data services in the state to stop the circulation of videos and images of the lynching of Syed Sarif who allegedly raped his wife's cousin	7th March	2015	Nagaland
52	<a href="http://rajasthanpatrika.patrika.com/story/bhilwara/section-144-imposed-in-bhilwara-ban-on-Internet-2404590.html">http://rajasthanpatrika.patrika.com/story/bhilwara/section-144-imposed-in-bhilwara-ban-on-Internet-2404590.html</a>	Internet services were suspended under Section 144 on 13th December 2016 till 5 pm in the district of Bhilwara due to the onslaught of communal tensions coinciding with the preparations of a Muslim religious function, Barafwat	13th Dec	2016	Rajasthan
53	<a href="http://timesofindia.indiatimes.com/city/jaipur/Internet-blocked-in-Bhilwara-to-curb-spread-of-rumours/articleshow/54369844.cms">http://timesofindia.indiatimes.com/city/jaipur/Internet-blocked-in-Bhilwara-to-curb-spread-of-rumours/articleshow/54369844.cms</a>	Internet services were blocked for a day in Bhilwara on 16th September, 2016 after the stabbing of a 21 year old Vishwa Hindu Parishad activist as he was returning home from Ganpati Puja	16th Sept	2016	Rajasthan
54	<a href="http://timesofindia.indiatimes.com/india/Rajasthan-police-to-ban-Internet-usage-as-per-needs-to-maintain-communal-harmony/articleshow/50258271.cms">http://timesofindia.indiatimes.com/india/Rajasthan-police-to-ban-Internet-usage-as-per-needs-to-maintain-communal-harmony/articleshow/50258271.cms</a>	Mobile Internet services were disrupted in the district of Bhilwara due to ongoing communal tensions	19th Dec	2015	Rajasthan
55	<a href="http://indianexpress.com/article/india/india-news-india/jat-quota-protests-in-rajasthan-districts-called-off/">http://indianexpress.com/article/india/india-news-india/jat-quota-protests-in-rajasthan-districts-called-off/</a>	Due to agitations of the Jat community for reservations as OBC, Internet services were shut down on 22nd February, 2016 and restored on the evening of 23rd February, 2016 in the Bharatpur district	22nd Feb	2016	Rajasthan
56	<a href="http://www.thehindu.com/news/national/other-states/communal-tension-in-rajasthan-cities/article7800532.ece">http://www.thehindu.com/news/national/other-states/communal-tension-in-rajasthan-cities/article7800532.ece</a>	In an incident of communal tension over the alleged killing of a muslim youth, Internet services were suspended in both these areas for 24 hours on 24th October, 2015	24th Oct	2015	Rajasthan
57	<a href="http://economictimes.indiatimes.com/tech/Internet/mobile-Internet-blocked-in-jaisalmer-barmer/articleshow/52992932.cms">http://economictimes.indiatimes.com/tech/Internet/mobile-Internet-blocked-in-jaisalmer-barmer/articleshow/52992932.cms</a>	After the death of a person in police firing, mobile Internet services were shut down in Barmer and Jaisalmer for 48 hours on 30th June, 2016 as calls for a Bandh was announced by the community members of the person who was killed	30th June	2016	Rajasthan

Sl. No	Links	Details	Date	Year	State
58	<a href="http://www.sabguru.com/Internet-services-blocked-in-bhilwara-city-for-72-hours/">http://www.sabguru.com/Internet-services-blocked-in-bhilwara-city-for-72-hours/</a>	Internet services were suspended in the district of Bhilwara to maintain law and order for reportedly 72 hours starting 27th December, 2016 as the Nagrik Suraksha Manch (a citizens' group) called for a city wide Bandh to protest lack of action taken against the accused in the ongoing communal riots	26th Dec	2016	Rajasthan
59	<a href="http://timesofindia.india-times.com/city/lucknow/Internet-blocked-in-riot-hit-Azamgarh/article-show/52300964.cms">http://timesofindia.india-times.com/city/lucknow/Internet-blocked-in-riot-hit-Azamgarh/article-show/52300964.cms</a>	Internet has been shut down completely in Azamgarh, the eastern UP district where communal tension broke out	17th May	2016	UP
60	<a href="http://indiatoday.intoday.in/story/Internet-curfew-up-bijnor-communal-clashes-harassment/1/766952.html">http://indiatoday.intoday.in/story/Internet-curfew-up-bijnor-communal-clashes-harassment/1/766952.html</a>	Internet services were blocked in the Bijnor district on 18th September, 2016 for reportedly 48 hours after communal clashes ensued in the region due to the alleged sexual harassment of a muslim girl	18th Sept	2016	UP

### States where network shutdowns have taken place

Twelve Indian states have witnessed network shutdowns during the last four years. Jammu and Kashmir is one of the most vulnerable states in India to terrorist attacks and ranks first with 29 shutdown incidents due to terrorist attacks, social unrest, and social media rumours etc. Gujarat placed second with 9 incidents and Haryana with 4 cases during the last four years. Social unrest like the ban on beef, Jat agitation, reservation seeking by Patel community and terrorist attacks were the main reasons for the high number of network shutdowns in these states. Rajasthan has witnessed 7 shutdown incidents during this period. UP, Manipur, and Bihar were the other states that experienced two network shutdown incidents during the same years. Whereas Nagaland, Arunachal Pradesh, Meghalaya, Maharashtra, and Jharkhand experienced one network shutdown during the same period. It is to be noted that 12 shutdown incidents have taken place in Jammu & Kashmir 2016.

Other than mobile Internet, state authority also banned text message services. In this case, police used Section 144 of CrPC, which deals with unlawful assembly, to ban mobile Internet services as well as assemblies with over five people. In December 2015, the Rajasthan government blocked mobile Internet services in some districts due to sectarian clashes. Other states where incidents of Internet shutdowns took place include Uttar Pradesh, Jharkhand, Meghalaya, Manipur, and Nagaland.

State	2012	2013	2014	2015	2016	Grand Total
Arunachal Pradesh	0	0	0	0	1	1
Bihar	0	0	0	0	2	2
Gujarat	0	0	1	5	3	9
Haryana	0	0	0	0	4	4
Jammu & Kashmir	3	5	4	5	12	29
Jharkhand	0	0	0	0	1	1
Maharashtra	0	0	0	0	1	1
Manipur	0	0	0	1	1	2
Meghalaya	0	0	0	1	0	1
Nagaland	0	0	0	1	0	1
Rajasthan	0	0	0	2	5	7
UP	0	0	0	0	2	2

Figure 9: State wise data of Internet shutdown in India

This year, between May and June alone, India witnessed nine cases of Internet shutdowns, not including the recently lifted virtual curfew imposed in the Valley since July 8, 2016. Twenty-three shutdowns were noted between January 2013 and January 2016.

### Reasons for network shutdown in India

There are various reasons for network shutdowns in India. News media coverage of all incidents of network shutdowns in the country were collated and categorised. Four major reasons behind such shutdowns became apparent: precautionary reasons, preventive measures—to maintain law and order, maintenance of communal harmony, and to maintain peace.

Past incidents have shown that the government shutdowns Internet services when people were incited by social media rumours, to deal with potential social unrest or terrorist attacks. According to officials in Kashmir valley, the Internet was shut down as a precautionary measure in view of Prime Minister Narendra Modi's rally in Srinagar on November 7th 2015. In order to maintain law and order, maintain peace, and as a preventive measure during the clash between the Sikh community and the state police in Jammu, the administration shut down the Internet in the area. In view of preventive measures and to avoid spread of rumours during the Patel stir, the officials of Gujarat government banned Internet and SMS services in the state. During the communal clashes in a few districts of Rajasthan, the police banned mobile Internet to maintain harmony. The Haryana government had banned mobile Internet as a precautionary measure to avoid widespread violence.

Though officials say that network shutdown concerns national security, it is the responsibility of the government to provide common man the space to access his/her rights in society. Most shutdowns occurred in the name of national security; however, the definition of security was not defined or explained before shutting down the network. In a country like India the mobile phone is not only a communication device but also device to access services like banking, edutainment, entertainment, travel bookings, and emergency services. It is high time alternate methods to cope with the situation are found.

### Economic impact of Internet shutdowns

Small businesses and daily wage labourers are unable to operate and their livelihoods are affected during shutdowns. Banking is one of the most affected sectors in India during an Internet shutdown. The economic consequences are quite high for a network shutdown. According to the Times of India, Gujarat suffered a loss of Rs 7,000 crores (Rs. 70 billion) due to an Internet shutdown and SMS blocking for six days in 2015<sup>66</sup>. People suffered through decreased income returns, delayed business dealings, and communications

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66. Times of India, "Mobile Internet shut down: Over Rs 7000 crore losses to banks in Gujarat" <http://timesofindia.indiatimes.com/city/ahmedabad/Mobile-Internet-shut-down-Over-Rs-7000-crore-losses-to-banks-in-Gujarat/articleshow/48760311.cms>

services among the common man were greatly hindered. People were even unable to access One Time Passwords on their mobiles<sup>67</sup> for e-transactions. According to the Brooking Report<sup>68</sup>, India lost USD 968 million due to 72 days of the Internet shutdown from 2015 to 2016. The country suffered a loss of USD 190 million when mobile Internet services were disrupted in Rohtak and Jhajjar, Haryana for a week in 2016.

The government's decision frustrated people especially businessman, telecom operators, students, traders, and journalists in the area. Fuel stations, hotels, restaurants, and other sectors where transactions were made by credit or debit cards, were badly affected by the suspension of data services in Jammu & Kashmir.

A resident of Handwara in Kashmir said,

*“For how long will the government decide whether we can communicate with each other or not? Actually, the authorities do not want us to spread the truth about the army’s atrocities far and wide.”<sup>69</sup>*

### III. Cyber Bullying

Special Rapporteur of Freedom of Assembly and of Association, Maina Kiai in his regional report identified that cyberbullying, use of bots<sup>70</sup>, flooding<sup>71</sup>, and other technical mechanisms are becoming common tools to target, threaten, and endanger rights activists and civil society organisations online. These practices not only affect FoE and the rights of minorities and marginalised groups, but also have serious repercussions for FoAA online. The Internet is being used to defame and threaten civil society workers, affecting their ability to be transparent about their associations online and restricting their advocacy efforts in the digital space. The report also identifies that offenders often use ‘hate speech’ and its variant as a tactic to push counter narratives out of the horizon. Offenders go to the extent of creating fake profiles and using social media pages to flood timelines with hate speech, ultimately aimed at defamation and intimidation of human rights workers. Another parameter that affects or restricts FoAA

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67. Times of India, “Mobile Internet shut down: Over Rs 7000 crore losses to banks in Gujarat” <http://timesofindia.indiatimes.com/city/ahmedabad/Mobile-Internet-shut-down-Over-Rs-7000-crore-losses-to-banks-in-Gujarat/articleshow/48760311.cms>

68. Center for Technology Innovation at Brookings Report; “Internet shutdowns cost countries \$2.4 billion last year”; <https://www.brookings.edu/wp-content/uploads/2016/10/intenet-shutdowns-v-3.pdf>

69. Kashmir Reader article; Netizens decry internet shutdown; <http://kashmirreader.com/2016/04/netizens-decry-Internet-shutdown/>

70. A bot, is a software application that runs automated tasks over the Internet, usually repeatedly and a very fast pace

71. Flooding refers to a denial of service (DOS) attack that is conducted by making services unavailable by flooding it with heavy traffic

is State surveillance, which gathers huge amounts of data and threatens rights-based organisations or workers.

Cyber-bullying is the use of communication tools, such as the Internet, instant messaging, texting or email, to harm an individual or a group in the form of harassment, humiliation, ridicule, and threats<sup>72</sup>.

According to Debarati Halder, Advocate and Managing Director at the Centre for Cyber Victim Counselling, “Cyber bullying is a typical type of online harassment, which can be defined as hurling harsh, rude, insulting, teasing remarks through the message box or in open forums targeting one’s body shape and structure, educational qualifications, professional qualifications, family, gender orientation, personal habits, and outlook<sup>73</sup>”.

The ‘Twins, Teens, and Technology 2014 Report’ by McAfee states that 50 per cent of Indian youth have had some experience with cyber bullying (been cyber-bullied online or witnessed others being so treated), out of which one-third (36 per cent) have themselves been cyber-bullied<sup>74</sup>.

“As more and more people have come online, more and more abuse can be seen as well,” says Anja Kovacs, Project Director of the Internet Democracy Project.

Under Section 66 (A) of the IT Act, 2000, cyber bullying is a bailable offence, punishable with three years of imprisonment and fine. However, the complainant and police can interpret what constitutes offensive behaviour, says cyber law expert Pavan Duggal. Cyber bullying is behaviour that is perceived to result in anger and embarrassment, demonstrating how online behaviour can have an impact offline.

Kavita Krishnan, a women’s rights activist, was attacked viciously during an online discussion on violence against women on Rediff.com, an Indian news aggregator website. Bullying Kavita, someone wrote, “Tell me where I should come and rape you using condom.” The person had chosen a Twitter handle @RAPIST and threatened to rape women in general if they did not stop wearing revealing clothes. In India, cyber bullying goes largely unpunished because of the absence of laws attuned to such cases. Except for Section 66A of the IT Act, according to which a person can be booked for sending false, offensive messages through communication services, there is no strong law to tackle cases of online abuse.

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72. Cyberbullying is a relatively new phenomenon. Kids have been bullying other kids for generations. However, with the introduction of technology to expand their horizons, the latest generation has been able to bully others through the use of these technologies. Cyberbullying itself is defined as the “willful and repeated harm inflicted through the use of computers, cell phones, and other electronic devices.”

73. Internet Democracy Project; ‘Cyber bullying rampant in India, legal vacuum persists’; <https://internetdemocracy.in/media/cyber-bullying-rampant-in-india-legal-vacuum-persists>

74. The Indian Express; Alarming! 50% Indian youths have experienced cyberbullying’; <http://indianexpress.com/article/technology/technology-others/alarming-50-indian-youths-have-experienced-cyberbullying/>

Most of these online abuse cases are dealt by clubbing Section 66A with the Prohibition of Ragging Act (Section 509 of IPC) that is meant to tackle with sexual harassment. However, Halder, points out, *“Except for cases of monetary fraud over the Internet, they [the police] don’t fall back upon the law too often.”*

## IV. Hacking and Anonymous Attacks

In 2012, a hacker group known by the name Anonymous carried out a series of attacks against websites of government departments, the Supreme Court of India, and two political parties (the Bharatiya Janata Part and the Indian National Congress). Anonymous reported that attacks were carried out in retaliation to blocks imposed on well-known video and file-sharing websites like Vimeo, DailyMotion, and the Pirate Bay. To knock out the government sites, Anonymous bombarded them with Distributed Denial of Service (DDoS) attack. The disabling of the websites was the first of the many to follow tangible action carried out under the OpIndia campaign announced by Anonymous on May 9, 2012, via a message posted to YouTube<sup>75</sup>.

In India and the rest of the world, cybercrimes, and anonymous attacks are growing. India is making several attempts to strengthen its online security and ensure that people are at peace and feel secure about their data. Realising the need to curb online crimes, Prime Minister Narendra Modi has red-flagged the issue of cyber security as an issue of global concern. In September 2014, the Department of Electronics and Information Technology (DeitY) banned the use of popular email services like Gmail and Yahoo! for official communication to safeguard critical and sensitive government data<sup>76</sup>.

Talking about cyber security, Sanjay Katkar, Co-founder and Chief Technology Officer of security software provider Quick Heal Technologies said, *“We require more collaboration between private companies and educational institutions to develop talent. We need more cyber warriors and need to be ready for the cyber war.”*

## V. Restricting civil societies

In June 2015, the Indian Home Ministry drafted new Foreign Contribution Regulation Act (FCRA)<sup>77</sup> to restrict NGOs from receiving foreign funds for activities *“detrimental to national interest, likely to affect public interest, or likely to prejudicially affect the security,*

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75. BBC New Media; Anonymous attacks Indian government websites; <http://www.bbc.com/news/technology-18114984>

76. Tech 2 ‘Indian Army site hacked: Does India have the right attitude to tackle cyber-crime?; <http://tech.firstpost.com/news-analysis/indian-army-site-hacked-does-india-have-the-right-attitude-to-tackle-cyber-crime-262503.html>

77. Foreign Contribution Regulation Act (FCRA) Amendment Act 2015; [http://mha1.nic.in/pdfs/draftamendment\\_170615.pdf](http://mha1.nic.in/pdfs/draftamendment_170615.pdf)

*scientific, strategic or economic interest of the state.*” However, there is no specific definition of ‘national interest’ or ‘security, scientific, strategic or economic, interest.’

According to the new rules, NGOs receiving foreign funds are to report the receipts of such funds on their websites or a government prescribed website within seven days of receiving the funds. The new rules also provide new forms for registration, renewal of registration and disclosure of receipt of foreign funds, which need to be filled and uploaded on government portals.

The incumbent government planned to equate economic security for NGOs under the FCRA with the definition provided in Section 2 of Unlawful Activities (Prevention) Act (UAPA).

Section 2 of the UAPA, amended in 2013, reads: *“Economic security includes financial, monetary and fiscal stability, security of means of production and distribution, food security, livelihood security, energy security, ecological and environmental security.”*

According to the new proposed changes, NGOs and organisations that have received foreign donations will now have to share personal details, bank account details, and bio-data of their trustees with the government. Moreover, banks will have to provide online access to the Home Ministry and Intelligence Bureau (IB) for monitoring the utilisation of accounts of all FCRA-registered associations. NGOs will have to list all their activities and declarations on a website, and register themselves under one of the nine Indian Acts: Societies Registration Act, 1860, Indian Trust Act, 1882, Section 25 of the Companies Act, 1956, Religion Endowments Act, 1863, Charitable and Religious Trust Act, 1920, Mussalman Wakf Act, 1973, Wakf Act, 1954, Public Wakfs Act, 1959 and Section 12 A of IT Act. If any organisation is unable to fill or submit the documents online, then chances of deregistration of the organisation also increases. The new rule is not only a tedious and complicated process for NGOs for filing their FCRA registration but it also gives power to the government to monetise foreign funding and how it is being used by NGOs. It further disables NGOs to access the foreign grant. Due to this new rule, the government has already cancelled the license of 15,000 NGOs who have received foreign funds.

It has also been reported that officials use FCRA, which tracks grants from foreign donors, to harass organisations that question or criticise government policies, to stymie their activities, and to cut off funds from abroad<sup>78</sup>.

Condemning the new FCRA rules, Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Maina Kiai stated:

*“...It has come to the attention of the special rapporteur on the rights to freedom of peaceful*

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78. Human Rights Watch, World Report 2015: India; <https://www.hrw.org/world-report/2015/country-chapters/india>

*assembly and of association that the accreditation of many organisations under the FCRA law is currently being reviewed. Many civil society organisations (CSOs) in India depend upon this accreditation to access foreign funding. Moreover, they depend upon foreign funding to carry out their operations and assist millions of Indians in pursuing their political, cultural, economic and social rights. The special rapporteur urges the authorities of the union of India to take this analysis into account as it proceeds with the accreditation process...<sup>79</sup>*

He added:

*“...The legislation does not clearly define ‘national interest’, ‘economic interest of the state’ or ‘public interest’ and appears to allow the government to restrict the right to freedom of association for any number of government purposes beyond ‘national security or public security.’”*

*“...Despite its reservation to the International Covenant on Civil and Political Rights, India remains obligated to interpret the right to form an association as defined in its constitution. The right to form an association includes the right to access resources, including foreign funding. Any restriction on accessing funding is a restriction on the right to freedom of association and must be evaluated against the legal framework discussed above to meet the narrowly tailored regime developed by the Human Rights Committee.”*

Kiai further asserted, *“India’s limitations on access to foreign funding do not meet ‘the stringent test for allowable restrictions’ under international law. This test requires that restrictions be prescribed by law; imposed solely to protect national security or public safety, public order, public health or morals, or the rights and freedoms of others; and be ‘necessary in a democratic society’. The FCRA fails on all three sections of the test.”*

In his analysis report, Kiai stated, *“The FCRA act and regulations appear to contravene India’s obligation under the ICCPR to ensure the rights of under its jurisdiction to free association because it imposes a total ban on associations’ access to foreign funding on vaguely defined grounds for a broad purpose not included in the ICCPR’s enumerated list of legitimate aims.”*

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79. Para 4; FCRA 2010 & FCRA 2011 Rules: <http://freeassembly.net/wp-content/uploads/2016/04/UNSR-FOAA-info-note-India.pdf>

# SECTION V: SPREAD OF MISLEADING INFORMATION & MISUSE OF LAW

Freedom of assembly without arms is always seen as a fundamental right, however, there is a long list of incidents where the government has violated this right. In some communal violence cases, the government has blamed access to the Internet for spread of misleading or misinterpreted information. This section elaborates two such incidents.

## Case Study 1: Muzaffarnagar Communal Riots

In August-September 2013, two religious communities clashed in Muzaffarnagar district of Uttar Pradesh state while participating in the ‘Bahu Beti Samaan Bachaoi Mahapanchyat’ (The Council to Honor and Protect Daughters)<sup>80</sup>. Attendees of the council were attacked and fired upon, resulting in 62 deaths leaving 93 others injured 93 and more than 50,000 displaced. Following this, the administration passed orders for an indefinite curfew in certain areas of Muzaffarnagar city – Nayi Mandi, City Kotwali and Civil Lines.

While hearing petitions in relation to the riots, the Supreme Court of India blamed the state government for negligence in preventing communal violence in Muzaffarnagar and adjoining areas<sup>81</sup>.

The court also singled out Akhilesh Yadav, the then chief minister of the state, for failing to prevent the violence. In a response to the court, the Uttar Pradesh state government blamed the circulation of a fake video on social media for aggravating communal violence in Muzaffarnagar. The inflammatory material was spread widely on various social networking sites like Facebook and Twitter. Newspaper reports morphed to display provocative headlines were widely circulated on social networking sites as well. Also circulated on social media were several posts and pictures showing exaggerated deaths. The fake video was blocked by the state but not before its snapshots made their way into

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80. The Hindu; The chilling familiarity of Muzaffarnagar; <http://www.thehindu.com/todays-paper/tp-opinion/the-chilling-familiarity-of-muzaffarnagar/article5139664.ece>

81. The First post; UP Govt failed to prevent Muzaffarnagar riots, says Supreme Court; <http://www.firstpost.com/india/up-govt-failed-to-prevent-muzaffarnagar-riots-says-supreme-court-1451195.html>

the pages of some daily newspapers. Following this incident, the police filed an FIR (First Information Report) against the Bhartiya Janta Party MLA from Sardhana constituency in Meerut district, Thakur Singh Som, and 200 others under the Section 420 (Forgery), Section 153A (promoting enmity on religious ground), Section 120B (conspiracy) and Section 66 of the IT Act.

### **Case-Study 2: North East Communal Riots**

In July 2012, violence broke out in Kokrajhar district of Assam state between Bodo tribe<sup>82</sup> and a religious community when unidentified men killed four Bodo youth. In retaliation, armed Bodos attacked the members of the religious community, suspecting them of being behind the incident. This resulted in clashes between the two groups that spread to other districts, namely– Chirang, Dhubri, Baksa and Kamrup, forcing thousands of people to flee their homes. Graphic images were circulated over the Internet and mobile phone networks showing supposed brutalities inflicted on members of the religious community during the riots that engulfed the Bodoland of Assam. Most of these images were quickly discovered to be manipulated and pulled out of an entirely irrelevant context to deliberately inflame rage between the two groups. However, harm had been done by then. People of north-east origin living in various parts of India were marked out for severe retribution. These rumours created panic among north-easterns living in metropolitan and cosmopolitan cities like Bengaluru and Pune, forcing hundreds of them to hurry back to their home towns out of fear. It was only after a couple of months when peace was restored that they returned to their places of work. This situation illustrates how the Internet and social media have been used to spread misinformation and further create a situation of panic.

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82. The Bodos are an ethnic and linguistic aboriginal group of the Brahmaputra valley in the northeast part of India. The Bodos are recognised as a plains tribe in the Sixth Schedule of the Indian Constitution

# SECTION VI: INDIA

## POSITION ON FREEDOMS & GOVERNANCE

India's position on freedom and governance is considered to be free, and ranks average on various indices compared to other South Asian countries like Pakistan, Bangladesh and Sri Lanka.

Table 3: South Asian countries and their positions on various global freedom indices

	India	Pakistan	Sri Lanka	Bangladesh	Nepal	Bhutan
2016						
Freedom on the World	Free	Partly Free	Partly Free	Partly Free	Partly Free	Partly Free
Freedom on the Net	Not Available					
Press Freedom Index	133	147	141	144	105	94
The Human Freedom Index	Not Available					
Global Democracy Ranking	Not Available					
2015						
Freedom on the world	Free	Partly Free*				
Freedom on the net	Partly Free	Not free	Partly Free	Partly Free	Not Assessed	Not Assessed

	India	Pakistan	Sri Lanka	Bangladesh	Nepal	Bhutan
Press Freedom Index	136	159	160	146	105	104
The Human Freedom Index	75	140	122	134	92	Not Accessed
Global Democracy Ranking	68	111	87	81	86	Not Accessed
2014						
Freedom on the world	Free	Partly Free* <sup>83</sup>	Partly Free*	Partly Free*	Partly Free*	Partly Free*
Freedom on the net	Partly Free	Not free	Partly free	Partly Free	Not Assessed	Not Assessed
Press Freedom Index	140	158	165	146	120	92
The Human Freedom Index	Not Available	Not Available	Not Available	Not Available	Not Available	Not Available
Global Democracy Ranking	70	109	85	80	49	Not Accessed

Table 3 shows that India has either shown progress or is consistent in democratic practices in comparison to countries like Pakistan, Sri Lanka and Bangladesh that show a downward trend in the global context. However, it does not define the real scenario in India if we go into detail as the freedom of speech, expression and association and assembly has seen downturn side from 2014 to 2016.

83. \*Indicates a country's status as an electoral democracy.

Table 4: India's position on global freedom indices between 2012-2016

Year	Freedom on the world	Freedom on the Net	Press Freedom Index	The Human Freedom Index	Global Democracy Ranking
2016	Free	Not Available	133	Not available	Not available
2015	Free	Partly Free	136	75	68
2014	Free	Partly Free	140	Not available	70
2013	Free	Partly Free	Not available	86	67
2012	Free	Partly Free	Not Available	75	72

Table 4 shows India's democratic practices in different global indices between 2012 and 2016. The Freedom on the World Index shows that India is 'free' under their parameters of political and civil liberties. The political liberties measured the electoral process, political pluralism and participation and functioning of government. Civil liberties measured 'freedom of expression and belief', 'associational and organisational rights', rule of law, and 'personal autonomy and individual rights'. Being a democratic country, the 'political liberty' score has not changed from year 2014 to 2016; however, 'civil liberty' saw a downward trend in scores from year 2015 (43) to 2016 (42).

This downfall in rankings is due to the launch of a central monitoring system (CMS) to conduct mass surveillance using criminal defamation legislation, hate-speech laws and contempt-of-court to curb critical voices on both social media and traditional media platforms and new FCRA law that permits the federal government to deny non-governmental organisations access to foreign funding. A variety of factors have come into play since the incumbent government came to power. It has become increasingly difficult for civil society organisations to assemble and associate due to various reasons. Some of the reasons being the launch of mass surveillance system, the introduction of new wing by the Ministry of Information Broadcasting (MIB) to monitor social media activities and scrutinise posts on platforms like Twitter and Facebook<sup>84</sup>, and using hate speech as a tactic to curb collective measures, etc.

The 'Freedom on the Net' index categorises India as a 'partly free' country in terms of Internet freedom on the basis of obstacles to access and limits on content parameters. The index shows that India has improved on Internet freedom from 2014 to 2015, scoring 42 to 40 (0 = Best, 100 = Worst).

This can be attributed to the striking down of Section 66A of the IT Act in 2015. However,

84. The Hindustan Times; Govt to monitor social media 24x7 to counter negative comments, blogs; <http://www.hindustantimes.com/india/govt-to-monitor-social-media-24x7-to-counter-negative-comments-blogs/story-6Phot5wXXtMbzTYTKpm9kI.html>

website blocking and mass surveillance through central monitoring system and violation of user rights have continued in India. In 2015, over 800 websites were blocked because they were found to contain pornographic material. On censorship issues, India has continued to censor content related to criticism of authorities; conflict, social commentary, blasphemy and satire. For example, the BBC documentary 'India's Daughter' was banned in March 2015.

France-based organisation Reporters without Borders' Press Freedom Index shows that India has improved its ranking between 2014 and 2016 in terms of protection of journalists and bloggers, with its score going up from 140 to 136. In 2014, India had experienced an unprecedented wave of violence against journalists, initiated by both State and non-state actors. This continued in subsequent years and they were attacked and anathematized by various religious groups that were quick to take offence. Even today, it is hard for journalists to cover regions such as Kashmir and Chhattisgarh that are regarded as 'sensitive' by the government.

Though the index has shown an improvement in India's scores, it points out that the present government does not have any mechanism to protect journalists but there is a growing inclination towards controlling media coverage. Pen International remarked, "*The banning of the BBC film 'India's Daughter' is yet another example of the chilling climate of censorship in India.*" Protesting the ban, Pen International appealed the Indian government to fulfil its obligation to protect the freedom of expression in accordance with Article 19 of the International Covenant on Civil and Political Rights (ICCPR), to which it is a state party. Committee to Protect Journalists (CPJ) Research has shown that:

*"...the reasons vary depending on which official deigns to hold forth on the matter, but the underlying motive, at least from here, looks like concern for India's international image as a place where rape is too taboo a subject to be discussed frankly and openly. Disappointing for a country that claims to be the world's most populous democracy that outright anti-media policies are on the rise under the Modi government."*

Though the scorecard for protecting journalists in India has shown an improvement from 2014 to 2016. The year, 2016 saw bans on specific media agencies or groups of journalists who wanted to report Kerala's court proceedings. In July 2016, a group of legal journalists, who attempted to report on Kerala court proceedings, faced unprovoked attacks. According to NP Rajendran, political columnist and retired deputy editor of Mathrubhumi<sup>85</sup>, "*...the media room in the high court was locked up after forcefully evicting reporters. Reporters were not even allowed to use the lift to go upstairs to meet the court officials or judges. A dozen of them, including a couple of women, were abused and threatened.*"

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85. Economic & Political Weekly Review (EPE); 'Ban' on Reporting From Kerala Courts; <http://www.epw.in/journal/2016/43/web-exclusives/rising-threat-press-freedom-corridors-judiciary.html>

In November 2016, the Government of India imposed a one-day ban on media agency NDTV India for allegedly revealing 'strategically sensitive' details during its coverage of the Pathankot attacks. Such cases also imply that these restrictions curtail freedom of assembly and association for journalists and media agencies who are associating for a common cause.

This also implies that there is a clear trend of adopting freedom of information (FOI) or access to information laws even as there appears to be a growing recognition that information control has become an increasingly important aspect of both global conflicts and local disputes. A slow trend towards decriminalisation of defamation has been partly offset by the increasing use of civil defamation, with disproportionate fines and damages, particularly against some media houses that are critical of powerful individuals or groups.

Canada-based Human Freedom Index examines 'freedom' on basis of personal and economic freedom parameters. The personal freedom index covers 'association, assembly, and civil society', 'expression', and 'relationship freedoms.' India scored 7.36 on personal freedom and 6.49 on economic freedom in 2012. The country then saw a drop in rankings from 75 in 2012 to 86 in 2013. India's score on personal freedom stood at 5.6 and that on economic freedom at 6.48 — making the overall score 6.06 on a 10-point scale in 2013. With reference to the same index, it is visible that India has done particularly poorly on measurements of freedom of expression. This is calculated based on press killings, freedom of speech, laws & regulations that influence media content, political pressure, and controls on media content, and dress code in public. India also performs very poorly on security and safety, a key ingredient in maintaining personal freedom and a significant factor in economic growth.

India's position in the Democracy Index has shown hiccups and its rank has fluctuated from 72 in 2012 to 67 in 2013, and from 70 in 2014 to 68 in 2015. The index measured political systems; democracy improvement, gender equality, civil liberties, press freedom, governance mechanism, and economic growth. Though India has shown progress in its freedom of association and democratic improvement, the index still shows a downward trend in overall growth of the country's progress as a democratic society.

The above mentioned indices have common indicators, i.e. freedom of expression, freedom of association, democratic participation, and government's engagement with media. Though these indices show that India is better than its neighbouring countries, measuring these sub-indicators has also proven that India is seeing a downward trend in freedom of association, freedom of assembly, freedom of expression, and freedom of information.

# RECOMMENDATIONS

While these recommendations may be to protect FoAA online, it is imperative that Freedom of Expression is also protected since one depends on the other. It is only when individuals are free to express their views and opinions that they can form associations and plan assemblies. Communication is essential to activities online and the protection of one's free speech needs to be upheld and promoted in order to uphold human rights.

1. It is recommended to define the context of FoAA. Replace vague and subjective terminologies that are being used in common legislations in India, for example 'public interest, organisation of a political nature or national security.
2. It is recommended that State and non-state actors engage with human rights stakeholders to review draft policies and laws governing and regulating the Internet.
3. It is recommended that the State should adopt human rights framework online and offline uniformly with the same standard.
4. It is recommended that government should be transparent in terms of blocking, filtering and removal of content and it must comply with international standards.
5. It is recommended that the government, in collaboration with all stakeholders should expand quality Internet access in a transparent, accountable, and affordable manner so that citizens can exercise their freedoms (expression, speech, information, association and assembly) freely. In this context, opportunities are increasing to advance development and human rights, particularly FoE and FoAA which can enable good governance and strengthen democracy.
6. It is recommended that National Commission on Human Rights incorporate Internet rights as part of their approach to human rights, as articulated by the UN Human Rights Council. It is also recommended that authorities adopt international mechanisms and frameworks to address FoAA online violations.
7. It is recommended that civil society organisations collaborate with private sector, the government, industry bodies and educational institutions to raise awareness about Internet rights, within the human rights framework, particularly FoE and FoAA among grassroots citizens.
8. It is recommended that all stakeholders deconstruct Internet-related human rights challenges to further understand the concepts of FoAA online challenges and issues, and align their national mechanism with international mechanism.
9. It is recommended that the government of India adopt international and UN mechanisms, and accept certain important international human rights mechanisms, like the UN Special Procedures and treaty bodies. It is important not only to protect and promote its human rights but also to continue to play a leadership position in persuading other developing countries.
10. There is also an urgent need for the NHRC and the State Human Rights Commissions

to have more independence and power of enforcement in particular to implement their recommendations.

11. It is recommended that administrative and law enforcement officials be provided with guidance, directives, and training to uphold FoE and FoAA online and offline.
12. It is recommended that law enforcement authorities be held liable and accountable for human rights violations by an independent and democratic oversight body and court of law.
13. It is recommended that individuals and civil society organisations should be able to seek financial aid and other resources and not be restricted by government, in a timely, equitable, transparent and accountable manner to exercise their FoE and FoAA rights.
14. It is recommended that a competent authority looks at all cases of blocking of Internet-based content on a regular basis to eliminate arbitrary actions
15. It is recommended that India expands its focus on the use of digital space and technologies to avoid hindrances in the exercise of the rights of FoAA

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# SHRINKING SPACES

## STATUS OF FREEDOM OF ASSOCIATION & ASSEMBLY IN INDIA

participation in democratic governance. Freedom of assembly and association is defined as the freedom of people to assemble and or associate for a cause or any purpose. Foster has defined human rights and civil liberties as basic individual rights; it can be claimed by an individual or group of individuals (Foster 2003:8). Human Rights Education Associates (HREA) defines that freedom of association as the right to form groups to organise and to assemble together with the aim of addressing issues of common concern. Freedom of assembly and association are often used interchangeably. They are also often linked with freedom of expression and freedom of

the right to peaceful assembly and association are fundamental rights of human beings and has been an integral part of the global fundamental rights regime. The right itself is an enabler of citizens' political

both rights correlate with freedom of expression and freedom to information as they are built on it. These rights cannot be exercised if the right to freedom of expression is not implemented. The freedom to assemble and associate freely depends on individuals being allowed to express their views even if they are in opposition to the ruling authorities, views. Professor Tonia Novitz of the University of Bristol has defined the freedom of association as the 'first generation' right of civil liberty and political right underpinning labour laws under the International Labour Organisation (Novitz); Foster 2003: 8). The Commonwealth Secretariat 2003 forum on, Best Practice: Freedom of Expression,

more closely related to the right to demonstrate and gather in public spheres, while freedom of association deals with forming groups or defining institutionalisation mechanisms within them. It is imperative that

of association provides specific provisions for certain groups such as children, environmental campaigners, human rights defenders, judges, minorities, and migrant workers (McBrid 2005: 18-9).

International and regional human rights standards affirm, recognise and protect the right to freedom of association so that organisations can "function freely and without undue interference". However, they also keep some limitations and restrictions to that freedom. Foster (2003:105) defines "freedom of association" as a conditional right. These limitations and restrictions are permitted on the grounds of national security, public safety or public order, protection of public

than others as it allows association for ideological, religious, political, economic, social, and cultural purposes. Therefore, the right to form political parties also falls under freedom to assemble. Freedom

mechanisms, a number of attempts have been made to map debates around Internet and human rights related issues. The Working Groups on Internet Governance in 2004 highlighted and located issues that fall under the ambit of Internet-related human rights, public policy issues, development, and democratic participation. It suggested looking at the overall interface between the Internet and rights; and developing a relationship between the Internet and freedom of expression, and freedom of assembly and association. As already noted, calls have been made to recognise and protect the right to freedom of assembly and association online, without actual elaboration of what such online rights entail. Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Maina Kiai noted in his 2012 thematic report the increased use of the Internet, in particular social media and other information and communication technologies as basic tools that enable individuals to organise peaceful assemblies. The definition of Freedom of

democratic society. Violence is one thing that affects national security, public safety, public order, public health services as well as other rights.

### FoAA Online

In terms of the intersection of online and offline human rights mechanisms, a number of attempts have been made to map debates around Internet and human rights related issues. The Working Groups on Internet Governance in 2004 highlighted and located issues that fall under



European Union

