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# FREEDOM OF INTERNET AND STATE CONTROL: A CASE STUDY ON INTERNET SHUTDOWNS IN INDIA

by

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*This study is necessitated by India's abysmal record with internet shutdowns, raising human rights concerns. In the past decade, India has witnessed a surge in internet shutdowns, ostensibly justified on grounds of national security, counterterrorism efforts, maintenance of law and order, and suppression of misinformation. These actions have sparked concerns regarding the violation of constitutionally guaranteed freedoms of speech, expression, and profession. Recognizing the pivotal role of the internet in contemporary society, this study scrutinizes the legal framework surrounding such shutdowns and the permissible grounds of governmental intervention. Through an exhaustive examination of shutdown grounds, frequency, and duration across Indian states and Union Territories (UTs) during 2021-24, this study evaluates their alignment with statutory and judicial directives. Employing both doctrinal and non-doctrinal methodologies, the study interrogates the hypothesis that internet shutdowns in India often transgress mandated guidelines. Findings underscore repeated violation of the established norms at the hands of governmental authorities and stress upon strict adherence to guidelines to curb potential abuses of state authority in implementing internet shutdowns. The study concludes that while India's approach to internet shutdowns provides valuable insights for the global community, it highlights the need for stronger enforcement of legal safeguards to prevent misuse. These lessons can help other nations balance state control with the protection of digital rights.*

## KEY WORDS

*Internet Shutdowns, Freedom of Internet, Freedoms of Speech and Expression, Anuradha Bhasin v. Union of India, Suspension Rules 2017*

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## 1. INTRODUCTION

The third industrial revolution, also known as the technological or digital revolution, is swiftly revolutionizing the modes of communication employed by contemporary societies.<sup>1</sup> The internet, the massification of personal computers, and the universalization of smartphones are some of its defining characteristics. Before the advent of the internet, only some people could afford to participate in public debates due to the inherently restricting infrastructure of the existing communication channels, such as television, radio, and print media. The Internet platforms broke down this barrier by creating open online communities for user-generated content, published without editorial control and at no cost.<sup>2</sup> This has significantly boosted engagement in public discussions and the volume of information available.

As the internet is an enabler of free communication, it has become a site of significant conflict, with many countries seeking means to restrict the unrestricted exchange of ideas. Such restrictions are often justified under the premise of upholding law and order or curbing the dissemination of misinformation. However, at times, driven by apprehensions of unfavorable public sentiment or potential protests, governments unjustifiably impose such restrictions on citizens. In this manner, the internet has also become a source of tension, especially when it comes to using state authority to regulate cyberspace and protect digital freedoms. The phenomena of internet shutdowns, which are becoming more commonplace worldwide as governments try to handle internal security concerns and restrict the flow of information, is a clear example of this tension.<sup>3</sup>

Acknowledging the central role played by the internet in our everyday lives and the unprecedented opportunities it offers for the realisation of human rights, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, in May 2011, had recommended that disconnecting users from Internet access is disproportionate and violative of Article 19 of the UDHR and the ICCPR related to the protection of freedom of speech and expression.<sup>4</sup> The

<sup>1</sup> Roberto Barroso, L. & van Brussel Barroso, L. (2023) Democracy, Social Media, and Freedom of Expression: Hate, Lies, and the Search for the Possible Truth. *Chicago Journal of International Law*, 24(51). Available from: <https://cjil.uchicago.edu/print-archive/democracy-social-media-and-freedom-expression-hate-lies-and-search-possible-truth> [Accessed 25 Mar. 2024].

<sup>2</sup> *Ibid.*

<sup>3</sup> Thumfart, J. (2024) Digital Rights and the State of Exception. Internet Shutdowns from the Perspective of Just Securitization Theory, *Journal of Global Security Studies*, 9(1). Available from: <https://academic.oup.com/jogss/article/doi/10.1093/jogss/ogad024/7515068> [Accessed 16 Mar. 2024].

<sup>4</sup> La Rue, F. (2011) *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*, A/HRC/59/50 UN. Available from: <https://primarys>

Rapporteur also called upon all States to ensure that Internet access is maintained at all times, including during times of political unrest.<sup>5</sup>

Internet shutdowns, defined as the intentional disruption of internet or electronic communications, rendering them inaccessible or effectively unusable for a specific population or within a location.<sup>6</sup> These shutdowns can vary in scope and intensity. They may involve a complete blackout where no internet services are available (both mobile and broadband), or they may be partial, such as restrictions on mobile data services while broadband remains operational in limited areas. Such Internet blackouts have been reported in various countries, ranging from authoritarian regimes to democratic nations, frequently under the guise of maintaining public order or national security.<sup>7</sup> These actions raise questions on achieving the proper balance between the right of an individual to information and freedom of speech guaranteed by international human rights law and state sovereignty in preserving security.

India, with its vibrant democracy and status as the world's largest democracy, presents a particularly compelling case study of this global phenomenon. The country has witnessed a significant number of internet shutdowns, particularly in regions experiencing social or political unrest. The duration and scope of these shutdowns can significantly differ, ranging from short-term suspensions lasting a few hours to long-term disruptions extending over several months to years, as was the case in Jammu and Kashmir in 2019-2021. The government often defend these shutdowns on the grounds of national security, combating terrorism, curtailment of spread of misinformation, and preserving law and order. Nonetheless, these shutdowns have a significant impact on citizens' rights, impacting everything from access to information and the fundamental freedoms of speech and expression to emergency services and economic activity.

According to data kept up to date by the Software Freedom Law Center, New Delhi, an impartial group of experts dedicated to protecting the freedom of cyberspace, there have been 788 internet shutdowns<sup>8</sup> since 2012, with

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ources.brillonline.com/browse/human-rights-documents-online/promotion-and-protection-of-all-human-rights-civil-political-economic-social-and-cultural-rights-including-the-right-to-development;hrdhrd99702016149 [Accessed 17 Mar. 2024].

<sup>5</sup> *Ibid.*

<sup>6</sup> Ryng, J. et al. (2022) Internet Shutdowns: A Human Rights Issue. *The RUSI Journal*, 167(50). Available from: <https://www.tandfonline.com/doi/full/10.1080/03071847.2022.2156234> [Accessed 17 Mar. 2024].

<sup>7</sup> De Gregorio, G. & Stremlau, N. (2020) Internet Shutdowns and the Limits of Law. *International Journal of Communication*, 14(1). Available from: <https://papers.ssrn.com/abstract=3622928> [Accessed 17 Mar. 2024].

<sup>8</sup> SFLC. (2025) *Internet Shutdowns Tracker*. [online] Available from: <https://internetshutdowns.in/> [Accessed 16 Sep. 2023].

the maximum number of shutdowns being ordered in the State of Jammu and Kashmir (433), followed by Rajasthan (100), Manipur (47), & Haryana (38).<sup>9</sup> According to Access Now, another international non-governmental organization that promotes internet rights, India had the greatest number of internet shutdowns worldwide in 2020.<sup>10</sup> Not only in 2020, but also in previous years, India has demonstrated a dismal record of frequently experiencing internet outages, drawing condemnation and attention from around the globe. In fact, India is frequently referred to as the "internet shutdown capital of the world."<sup>11</sup> The figure 1 given below highlights the number of internet shutdowns imposed in India since 2012.<sup>12</sup>

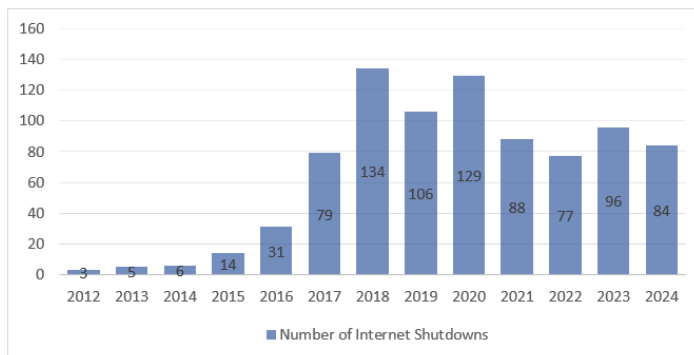


Figure 1: Number of Internet Shutdowns in India 2012 - 2024

The longest internet outage in the nation's history occurred in the State of Jammu and Kashmir in 2019—just before the State's special status was revoked—and lasted for 522 days. The internet shutdown in Jammu and Kashmir primarily affected mobile data services, with some limited restoration of low-speed 2G services after several months. Broadband services were restored gradually in certain areas. Hence, during these extended shutdowns, some internet access may have been available in restricted forms or to specific categories of users (such as government officials or essential services), but the general population experienced severe

<sup>9</sup> SFLC. (2025) *op. cit.*

<sup>10</sup> Chakravarty, A. (2021) *India Saw Highest Number of Internet Shutdowns in the World in 2020*. [online] India Today. Available from: <https://www.indiatoday.in/technology/news/story/india-saw-highest-number-of-internet-shutdowns-in-the-world-in-2020-1775608-2021-03-04> [Accessed 16 Sep. 2023].

<sup>11</sup> Alam, T. (2018) *India Ranks First in Internet Shutdown, UNESCO Shows Concerns*. [online] Entracker. Available from: <https://entracker.com/2018/05/internet-shutdown-india-ranks-first/> [Accessed 16 Sep. 2023].

<sup>12</sup> SFLC. (2025) *op. cit.*

limitations. In the case of *Anuradha Bhasin Vs. Union of India*<sup>13</sup> the Supreme Court considered a challenge to the this excessively long internet shutdown period imposed in the State of Jammu and Kashmir. The court ruled that indefinite internet shutdowns are in violation of constitutional principles and established specific guidelines and principles that the authorities must adhere to when enforcing internet shutdowns.<sup>14</sup>

The Internet is the most potent communication tool available in the modern world. Our societies rely heavily on the internet for a variety of purposes, from using social media to conducting banking and corporate operations to getting access to administrative and medical services. From this perspective, any government restriction on internet access amounts to a direct infringement on the fundamental rights as guaranteed by the Indian Constitution, including freedom of speech and expression (Article 19(1)(a)), freedom to practice any profession or to engage in any trade, business, or occupation (Article 19(1)(g)), and right to life (Article 21) and its various positive interpretations, including right to livelihood and right to education (Article 21A). Although it is undeniable that none of the fundamental rights guaranteed by the Indian Constitution are absolute and that the state may impose reasonable restrictions on the exercise of these rights, any action taken by the state that infringes upon a fundamental right must be in agreement with constitutional principles that have been defined and developed with the assistance of Indian judiciary.

### 1.1. RESEARCH OBJECTIVES

In view of the foregoing, the primary objective of this study is to describe the frequency, reasons, and duration of internet shutdowns that are implemented nationwide in India. After identifying them, the study examines whether these internet shutdowns follow the statutory and judicial principles laid down by the Supreme Court in *Anuradha Bhasin's* case. This landmark judgment by the Supreme Court of India has clarified the constitutional limits on the government's power to suspend internet services. The Supreme Court of India, in particular, is the highest authority for upholding fundamental rights in the country, and its decisions have a significant impact on both individual freedoms and the actions of the government. *Anuradha Bhasin's* case established key legal standards for ensuring the proportionality of government actions, transparency, and the necessity of judicial review when fundamental rights such as freedom of speech and access to the internet are

<sup>13</sup> *Anuradha Bhasin Vs. Union of India* (2020), 3 SCC 637. Available from: [https://main.sci.gov.in/supremecourt/2019/28817/28817\\_2019\\_2\\_1501\\_19350\\_Judgement\\_10-Jan-2020.pdf](https://main.sci.gov.in/supremecourt/2019/28817/28817_2019_2_1501_19350_Judgement_10-Jan-2020.pdf) [Accessed 16 Sep. 2023].

<sup>14</sup> *Ibid.*

restricted. By analyzing this case, the study aims to demonstrate how these judicial principles serve as a safeguard against arbitrary government actions and how they apply to the increasing instances of internet shutdowns in India. The study additionally aims to propose specific measures that could be implemented to stop authorities from abusing their power to impose internet shutdowns. These suggestions will be predicated on the knowledge obtained from the examination of the number, justification, and length of internet shutdowns, as well as the assessment of how well they adhere to the current legal system and judicial norms. By fulfilling these objectives, this study hopes to further the current debate about how to strike an equilibrium in the context of internet shutdowns between protecting individuals' fundamental rights while safeguarding national security.

## 1.2. RESEARCH METHODOLOGY

This research uses both doctrinal and non-doctrinal research methods in accordance with the study's objectives. The doctrinal methodology has been used to study the legal framework related to imposition of internet shutdowns in India. Primarily, this has been accomplished by carefully examining and evaluating the relevant statutes, procedural rules, and judicial pronouncements. The non-doctrinal method (empirical approach) has been used to examine whether the central or state governments are adhering to the relevant regulations and procedures while issuing directions for internet shutdowns. The purposive sampling technique has been used to identify the most recent internet shutdowns imposed in the various Indian states during 2021, 2022, 2023, and 2024. The issuing authority, reasons, and duration of these internet shutdowns are also recorded. Secondary resources, such as departmental websites, newspaper reports, and official notifications, have been relied upon to collect data.

There are six sections to this study. After introducing the research topic and design in the introductory section, the second section explores internet shutdowns as a global phenomenon, analyzing the key motivations behind their imposition by governments. The third section provides an overview of the statutory, procedural, and judicial guidelines for enforcing internet shutdowns in India. The fourth section of the paper compiles the data related to the nation's most recent and significant internet shutdowns from the years 2021, 2022, 2023, and 2024. The fifth section thoroughly examines the guidelines with the data gathered on internet shutdowns and identifies anomalies committed by authorities while issuing these orders. The sixth section concludes the findings of the study and makes recommendations for improvements.

## 2. INTERNET SHUTDOWNS: UNDERSTANDING THE GLOBAL CRISIS AND ITS UNDERLYING CAUSES

According to the most recent report from Access Now, a non-profit organization working on digital civil rights, internet shutdowns in 2024 reached an unprecedented scale in terms of frequency and geographic spread, making it the worst year ever for digital blackouts.<sup>15</sup> The scope of these disruptions expanded significantly, with shutdowns affecting more countries, communities, and individuals than in any previous year. Governments increasingly turned to internet shutdowns as a tool for control during critical moments such as protests, elections, and conflicts, resulting in widespread communication disruptions that endangered lives and silenced dissent. The year 2024 witnessed a staggering 296 internet shutdowns across 54 countries—a 9.5% increase from the previous year.<sup>16</sup> Not only did the number of shutdowns rise, but their impact was also more severe, with broader geographic regions and entire nations being plunged into digital darkness. From Myanmar and Bangladesh to India, Pakistan, Iran, and Russia, shutdowns were deployed with alarming regularity, affecting millions and cutting off essential access to information, economic activity, and social services. Figure 2 below gives an overview of the total number of shutdowns imposed globally during the years 2016 to 2024.

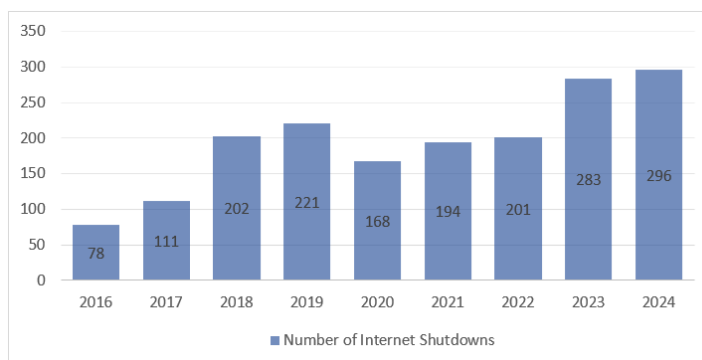


Figure 2: Number of Internet Shutdowns imposed globally during 2016 - 2024

<sup>15</sup> Access Now. (2024) *Emboldened offenders, endangered communities: Internet shutdowns in 2024*. [online] Available from: <https://www.accessnow.org/wp-content/uploads/2025/02/KeepItOn-2024-Internet-Shutdowns-Annual-Report.pdf> [Accessed 12 Jun. 2025].

<sup>16</sup> Access Now. (2024) *op. cit.* p. 5.

In particular, conflicts and protests emerged as significant drivers of shutdowns, with many countries seeing widespread, multi-regional blackouts.<sup>17</sup> What was once a tool reserved for isolated incidents has now evolved into a widespread tactic, used by both democratic and authoritarian regimes. Shutdowns are now also increasingly imposed by foreign actors, such as in the cases of Israel and Russia using digital blackouts as part of military strategies in Gaza and Ukraine, respectively. Some countries, particularly in the Middle East and Africa, are imposing shutdowns during national exams to prevent cheating. In 2024, countries like India, Iraq, Syria, and Algeria continued this practice.<sup>18</sup>

This global expansion in the scope of shutdowns also highlights the growing impunity with which governments wield this tool. Despite international frameworks protecting the right to information and communication, authorities cited vague reasons like national security or public safety to justify the shutdowns, while their true motivations often involved silencing opposition, curbing protests, or controlling narratives during electoral cycles. The devastating scope and spread of internet shutdowns in 2024 demonstrated a clear shift in how digital communication is weaponized, with more lives being affected by these disruptions than ever before. The global rise of shutdowns underscores the urgent need for coordinated international action to protect access to the internet as a fundamental human right.

As the global leader in internet shutdowns—though briefly and only marginally overtaken by Myanmar in 2024—India continues to use such measures frequently in response to protests, civil unrest, and national security concerns. This makes India a key jurisdiction for analyzing the reasons behind these shutdowns and the legal and judicial responses aimed at preventing excessive infringement on fundamental rights. Studying India's approach provides important insights into how shutdowns are justified and regulated while balancing public safety with the protection of individual freedoms.

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<sup>17</sup> Access Now. (2024) *op. cit.* p. 7.

<sup>18</sup> Access Now. (2024) *op. cit.* p. 9.

### 3. STATUTORY, PROCEDURAL, AND JUDICIAL GUIDELINES RELATED TO INTERNET SHUTDOWNS IN INDIA

Under the constitutional scheme, India is a federal state comprising twenty-eight (28) states and nine (9) union territories. While states have their own elected governments, Union Territories are either governed directly by the central government or have a limited local government structure, with greater central oversight. The power to impose internet shutdowns in India primarily lies with state governments for their respective regions and with the central government for Union Territories. Further, in the Indian states, the elected state governments are tasked with maintaining law and order (including ordering shutdown of internet services). Meanwhile, in union territories, the central government of India is discharging this obligation. Under both these scenarios, this responsibility of maintaining law and order is passed down orders to key district-level officials in charge of law enforcement, i.e., the district magistrate and the superintendent of the police.<sup>19</sup>

The law related to internet shutdowns has undergone transformation in India in the year 2017. Consequently, the current regulatory framework can be divided into two distinct periods: the period preceding 2017 and the period following 2017.

#### 3.1. PRE-2017 INTERNET SHUTDOWN REGULATIONS

Until 2017, internet shutdowns were primarily imposed by the district magistrates under Section 144 of the Code of Criminal Procedure (hereinafter “Cr.P.C”). It is pertinent to note at this juncture that the legislators did not intend to implement internet shutdowns (internet being non-existent!) at the time when Cr.P.C. 1973 was enacted. In essence, section 144 Cr.P.C. lays down a general provision granting broad powers to the district and executive magistrates to pass emergent orders in cases of nuisance or apprehended danger to issue directions to prevent any obstruction, annoyance, or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquility, or a riot, of an affray.<sup>20</sup> Over time, in

<sup>19</sup> Ruijgrok, K. (2022) The Authoritarian Practice of Issuing Internet Shutdowns in India: The Bharatiya Janata Party’s Direct and Indirect Responsibility. *Democratization*, 29. Available from: <https://www.tandfonline.com/doi/full/10.1080/13510347.2021.1993826> [Accessed 25 Mar. 2024]. p. 611.

<sup>20</sup> *The Code of Criminal Procedure 1973*, India. In: English. S. 144. “Power to issue order in urgent cases of nuisance of apprehended danger. (1) In cases where, in the opinion of a District Magistrate, a Sub-divisional Magistrate or any other Executive Magistrate specially empowered by the State Government in this behalf, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in the manner provided by section 134, direct any person to abstain from

the absence of an alternative appropriate provision, administrators began to utilize Section 144 Cr.P.C. to impose internet shutdowns when they deemed it necessary to safeguard public safety and tranquility.

### 3.2. POST-2017 INTERNET SHUTDOWN REGULATIONS

As internet shutdowns became increasingly frequent, the central government notified the Temporary Suspension of Telecom Services (Public Emergency and Public Safety) Rules, 2017 (hereinafter "Suspension Rules, 2017") by using the powers conferred by section 7 of the Indian Telegraph Act, 1885. The Indian Telegraph Act of 1885 establishes a broad regulatory framework governing telecommunications in India. Provisions of this colonial-era statute have been modified and adapted to meet the requirements of modern telecommunications.

In contrast to the general provision of Section 144 Cr.P.C., the Suspension Rules, 2017, establish a novel procedure that state agencies must adhere to when implementing internet shutdowns. The "competent authority" may issue a directive to suspend telecommunications services through these newly established regulations. In the case of a Union Territory administered by the Central Government, the Secretary to the Government of India in the Ministry of Home Affairs may issue such a directive; for State Governments, the Secretary to the State Government in charge of the Home Department may do so.<sup>21</sup> Should the necessary authorization not be obtained from the appropriate competent authority, an officer holding a rank not lower than that of a Joint Secretary to the Central/State Government may issue the directive. However, in such situations, the joint Secretary is obligated to obtain the competent authority's approval within twenty-four hours of issuing the shutdown order.<sup>22</sup>

Temporary suspensions of telecommunications services may be mandated under the Suspension Rules, 2017, specifically in cases of "public emergency" or "public safety".<sup>23</sup> However, the rules do not define these two grounds; therefore, the competent authority authorized to impose the shutdowns exercises its subjective judgment regarding the applicability of these grounds.

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*a certain act or to take certain order with respect to certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquility, or a riot, of an affray. . . ."*

<sup>21</sup> *The Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules 2017*, SI, TSTSR 2017, India, In: English, r. 2(1).

<sup>22</sup> *Ibid.*

<sup>23</sup> *The Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules 2017. op. cit. r. 2(2), r. 2(5).*

However, the competent authority should keep in mind that the of imposing internet shutdowns cannot be exercised lightly as in the case of *Hukam Chand Shyam Lal v. Union of India*,<sup>24</sup> the Supreme Court has clarified that the two phrases "public emergency" and "in the interest of the public safety" occurring in Section 5(2) of the Telegraph Act and also the Suspension Rules, 2017, appear to take colour from each other. In this context the court observed that,

*"[I]n the first part of Sub-section (2) of Section 5 of the Telegraph Act, those two phrases occur in association with each other, and the context further clarifies with amplification that a "public emergency" within the contemplation of this Section is one which raises problems concerning the interest of the public safety, the sovereignty and integrity of India, the security of the State, friendly relations with foreign States or public order or the prevention of incitement to the commission of an offence."*<sup>25</sup>

Therefore, *Hukam Chand Shyam Lal's* case has clarified that the scope of "public emergency" and "public safety" relates to the situations pertaining to "sovereignty and integrity of India, the security of the State, friendly relations with foreign states or public order or for preventing incitement to the commission of an offence."

While providing for additional safeguards, the Suspension Rules, 2017, also provide that any order related to the suspension of telecom services, issued by the authorized body, must delineate the rationale behind such action.<sup>26</sup> Additionally, to forestall the potential misuse of such powers, the regulations specify that both the Central and State Governments are obligated to establish a review committee.<sup>27</sup> This committee is tasked with convening within a timeframe of five working days subsequent to the issuance of directives for the suspension of services and record its finding, as required under Rule 2(6), whether the suspension orders are in accordance with the provisions of the main statute, viz., Section 5(2) of the Telegraph Act, 1885.<sup>28</sup>

The most recent legal development concerning the suspension of internet services in India is the enactment of the Telecommunications Act, 2023 and subsequent adoption of the Telecommunication (Temporary Suspension of Services) Rules, 2024 (hereinafter "Suspension Rules, 2024"). The legal basis for imposing internet shutdowns in India is now provided under Section 20(2) of the Telecommunications Act, 2023. It authorizes the Central or State

<sup>24</sup> *Hukam Chand Shyam Lal v. Union of India* (1976), 2 SCC 128.

<sup>25</sup> *Hukam Chand Shyam Lal v. Union of India* (1976), *op. cit.* (n 24) para. 90.

<sup>26</sup> The Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules 2017. *op. cit.* r. 2(2).

<sup>27</sup> The Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules 2017. *op. cit.* r. 2(2), r. 2(5).

<sup>28</sup> The Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules 2017. *op. cit.* r. 2(6)

Government, or their designated officers, to suspend telecommunication services during a *public emergency* or in the interest of *public safety*. Such action must be deemed necessary or expedient to protect the sovereignty and integrity of India, national security, public order, friendly relations with foreign states, or to prevent incitement to offences. Thus, the grounds for imposing internet shutdowns under the Telecommunications Act, 2023, remain substantially the same as those provided under the earlier Indian Telegraph Act, 1885.

The Suspension Rules, 2024 prescribe the procedures and safeguards to be followed while ordering suspension of internet services. These rules formally replace the earlier Suspension Rules, 2017, and were introduced in response to growing legal challenges and public criticism surrounding the opacity and arbitrariness of internet shutdowns.<sup>29</sup> Conceptually, the Suspension Rules, 2024 mark a transition from the colonial framework of the Indian Telegraph Act, 1885, to a more contemporary regulatory structure.

Under the new regime, any suspension of telecom services' orders are now required to be published, must clearly articulate the reasons for the suspension, and must be narrowly tailored in scope.<sup>30</sup> Specifically, they must address only the stated reasons, apply to a clearly demarcated geographical area, and be time-bound, not exceeding fifteen calendar days at a time.<sup>31</sup> The rules also mandate that a suspension order may be issued only if the issuing authority is satisfied that the objectives outlined in Section 20(2) of the Telecommunications Act, 2023, cannot be achieved through any other reasonable means. This effectively introduces a test of *necessity*, requiring the authority to consider the availability of less restrictive alternatives before imposing a suspension.<sup>32</sup> Additionally, each order must be forwarded to the designated review committee within twenty-four hours of its issuance.<sup>33</sup> Despite these procedural refinements, the substantive framework governing authorized issuing authorities<sup>34</sup> and the composition of the review committee<sup>35</sup> remains unchanged from the 2017 Rules.

<sup>29</sup> These rules came into effect on Nov. 22, 2024.

<sup>30</sup> *The Temporary Suspension of Telecommunication Services Rules 2024*, SI, India. In: English, TSTSR 2024, r. 3(2).

<sup>31</sup> *Ibid.*

<sup>32</sup> *The Temporary Suspension of Telecommunication Services Rules 2024. op. cit.* r. 3(5).

<sup>33</sup> *The Temporary Suspension of Telecommunication Services Rules 2024. op. cit.* r. 3(3).

<sup>34</sup> *The Temporary Suspension of Telecommunication Services Rules 2024. op. cit.* r. 3(1).

<sup>35</sup> *The Temporary Suspension of Telecommunication Services Rules 2024. op. cit.* r. 5.

### 3.3. JUDICIAL STANCE AND GUIDELINES RELATED TO INTERNET SHUTDOWN

The Indian judiciary's stand and principles with regard to internet shutdowns have been shaped number of landmark cases wherein it has showcased a pragmatic approach when confronted with situations where internet access of the citizens was curtailed without adequate justification. In the case of *Faheema Shirin R. K. v. State of Kerala*,<sup>36</sup> the High Court of Kerala held that right to access the internet is considered as a part of freedom of speech and expression under Article 19(1)(a) and cannot be taken away arbitrarily.<sup>37</sup> The restriction on the use of mobile phones in a women's dormitory, as was imposed in this case, was deemed by the court to be an unjustifiable violation of the freedom to access the internet, the right to privacy, and the right to an education, all relatable to Arts. 19 and 21 of the Indian Constitution. Similarly in the case of *Banashree Gogoi v. Union of India*,<sup>38</sup> the Guwahati High Court criticized the state government for prolonged internet shutdowns and for not restoring the mobile internet services when the normalcy had returned in the state and ordered immediate restoration of the mobile internet services in the state. The court underscored that while internet suspension may be permissible under specific circumstances, it should not persist when conditions no longer warrant it, as internet plays a vital role in modern life.<sup>39</sup>

Most importantly, the issue of imposition of telecom shutdowns by government authorities has been discussed at length by the three-judge bench of Supreme Court in the case of *Anuradha Bhasin Vs. Union of India*,<sup>40</sup> while hearing the matter related to the imposition of restrictions on telecommunication services in the backdrop of revocation of the special status of the State of Jammu & Kashmir in 2019. The District Magistrates across the State of J&K, by invoking Section 144 of the Cr.P.C., ordered the suspension of internet, landline, and mobile phone services on August 4, 2019 and thereafter on August 5, 2019, also imposed restrictions on movement and public gatherings of citizens citing concerns about peace and tranquility. Anuradha Bhasin, a journalist, challenged these restrictions on internet access and movement in the Supreme Court under Article 32 of the Indian Constitution, alleging violations of Article 19, particularly regarding freedom of expression and the freedom to practice any profession.

<sup>36</sup> *Faheema Shirin R. K. v. State of Kerala* (2020), Ker AIR 35.

<sup>37</sup> *Faheema Shirin R. K. v. State of Kerala* (2020), *op. cit.* (n 36) para. 19.

<sup>38</sup> *Banashree Gogoi v. Union of India* (2019) Gau SCCOnline 5584.

<sup>39</sup> *Banashree Gogoi v. Union of India* (2019), *op. cit.* (n 38) para. 8.

<sup>40</sup> *Anuradha Bhasin Vs. Union of India* (2020), *op. cit.* (n 13).

The Supreme Court in this case categorically held that,

*“The freedom of speech and expression and the freedom to practice any profession or carry on any trade, business or occupation over the medium of internet enjoys constitutional protection under Article 19(1)(a) and Article 19(1)(g). The restriction upon such fundamental rights should be in consonance with the mandate under Article 19 (2) and (6) of the Constitution, inclusive of the test of proportionality.”*<sup>41</sup>

In this case, the court outlined several directions that the government authorities must follow before imposing telecommunications shutdowns. At the outset, the application of the *test of proportionality* is emphasized,<sup>42</sup> to ensure that the nature and quality of the encroachment on the fundamental freedoms guaranteed under Article 19(1)(a) & (g) of the Indian Constitution is not disproportionate to the purpose for which restrictions are imposed and are not extended beyond necessary duration.<sup>43</sup> Secondly, the court mandates the publication of suspension orders to enable affected individuals to challenge them before competent judicial bodies, promoting transparency and thereby avoiding arbitrary shutdowns.<sup>44</sup> Thirdly, all internet suspension orders are subject to judicial review of the courts to prevent arbitrary shutdowns.<sup>45</sup> Additionally, such orders must only be passed in extreme circumstances after exploring and assessing alternative measures.<sup>46</sup> Furthermore, *indefinite suspension of internet services* is deemed *impermissible*, and periodic reviews, as mandated by the Suspension Rules, 2017, are required to prevent prolonged imposition of shutdowns.<sup>47</sup> These guidelines were passed by the court with the aim to uphold fundamental freedoms while preventing abuse of governmental powers, ensuring transparency and accountability in the process of imposing internet shutdowns.

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<sup>41</sup> Anuradha Bhasin Vs. Union of India (2020), *op. cit.* (n 13) para. 152(b).

<sup>42</sup> Anuradha Bhasin Vs. Union of India (2020), *op. cit.* (n 13) para. 152(d).

<sup>43</sup> Anuradha Bhasin Vs. Union of India (2020), *op. cit.* (n 13) para. 68.

<sup>44</sup> Anuradha Bhasin Vs. Union of India (2020), *op. cit.* (n 13) para. 152(a).

<sup>45</sup> Anuradha Bhasin Vs. Union of India (2020), *op. cit.* (n 13) para. 152(e).

<sup>46</sup> Anuradha Bhasin Vs. Union of India (2020), *op. cit.* (n 13) para. 152(d).

<sup>47</sup> Anuradha Bhasin Vs. Union of India (2020), *op. cit.* (n 13) para. 152(c).

Table 1 below summarizes the key differences in the legal and procedural framework for internet shutdowns in India, providing a comparison between pre-2017, post-2017 regulations, and recent judicial guidelines:

Aspect	Pre-2017 Regulations	2017 Regulations	2024 Regulations	Judicial Stance and Guidelines
Authority Responsible for ordering shutdown of Internet	District Magistrates	Competent Authority (Secretary to the Government of India/State Government in-charge of the Home Department)	Competent Authority (Secretary to the Government of India/State Government in-charge of the Home Department)	The Indian Judiciary (Supreme Court, High Courts) has evolved legal tests and standards that provide for judicial review of internet shutdowns ordered by the Government of India or state governments.
Regulatory Framework	Section 144 of the Code of Criminal Procedure (Cr.P.C.)	Temporary Suspension of Telecom Services (Public Emergency and Public Safety) Rules, 2017	The Temporary Suspension of Telecommunication Services Rules, 2024	Court decisions, particularly guidelines laid down in <i>Anuradha Bhasin's</i> judgment.
Procedure	Imposition based on emergent orders for public safety issued under Section 144 of the Cr.P.C.	Established procedure under the Suspension Rules, 2017	Introduced additional safeguards, including mandatory publication of the suspension order, a clear statement of reasons, specification of the affected geographical area, and a maximum duration limit of fifteen days at a time (extension is possible).	Application of proportionality test, publication of orders, judicial review, exploration of alternatives, periodic reviews, prevention of indefinite suspensions.
Criteria for Shutdowns	Broad powers to prevent obstruction, annoyance, or injury to public	Grounds of "public emergency" or "public safety" defined subjectively.	Grounds of "public emergency" or "public safety" defined subjectively. The authority additionally to consider the availability of alternative measures (test of necessity).	Grounds of "public emergency" or "public safety", to ensure proportionality and necessity.
Oversight Mechanism	-	Establishment of review committees	Establishment of review committees	Judicial review and oversight.

Table 1: Statutory, procedural, and judicial guidelines related to internet shutdowns in India

#### 4. EMPIRICAL FINDINGS OF INTERNET SHUTDOWNS IMPOSED DURING 2021-2024

This section of the paper, employing a purposive sampling technique, aims to identify the grounds, issuing authority, and approximate duration for which government authorities ordered internet shutdowns in India in 2021-24. This inquiry will provide a thorough understanding of the patterns and causes of internet shutdowns in India in the recent past.

According to statistics, the State of Jammu and Kashmir experienced the longest internet blackout in 2019 when the President of India repealed Article 370 of the Constitution, which granted the state special status. It was imposed on August 5, 2019, and was a preventive shutdown to avoid crippling of law and order situation in the state. In the intervening period, limited internet connectivity in the form of 2G services was restored in some regions. The erstwhile state regained 4G connectivity on February 6, 2021, after 552 days of no to low internet.<sup>48</sup>

The second longest internet shutdown was ordered in the North-Eastern state of Manipur on May 3, 2023, after an unprecedented ethnic violence erupted in the state between the Meitei people, a majority that lives in the Imphal Valley, and the Kuki-Zo tribal community from the surrounding hills.<sup>49</sup> The shutdown was deemed necessary by the state government to curb spread of misinformation and maintain peace. On July 7, 2023, the High Court of Manipur intervened, ordering limited restoration of internet services via broadband connections and white-listing select mobile numbers.<sup>50</sup> The government partially lifted shutdown orders on December 3, 2023, limiting them to areas affected by violence; this marked the end of Manipur's longest shutdown of 2023.<sup>51</sup>

<sup>48</sup> Rajvanshi, A. (2023) *How Internet Shutdowns Wreak Havoc in India*. [online] TIME. Available from: <https://time.com/6304719/india-internet-shutdowns-manipur/> [Accessed 25 Mar. 2024].

<sup>49</sup> The Hindu Bureau. (2024) *Longest Internet Shutdown in 2023 Took Place in Manipur amidst Human Rights Violations: Report*. [online] The Hindu. Available from: <https://www.thehindu.com/sci-tech/technology/longest-internet-shutdown-2023-took-place-manipur-amidst-human-rights-violations-report/article67726259.ece> [Accessed 25 Mar. 2024].

<sup>50</sup> Lakshman, A. (2023) *Lift Ban on Internet Services with Safeguards: Manipur High Court Directs State Government*. [online] The Hindu. Available from: <https://www.thehindu.com/news/national/other-states/manipur-high-court-orders-home-department-to-lift-the-ban-on-providing-internet-through-internet-lease-line/article67056929.ece> [Accessed 25 Mar. 2024].

<sup>51</sup> Shirin, B. (2023) *Internet Ban Lifted in Violence-Hit Manipur, Restrictions in Border Areas till Dec 18*. [online] India Today. Available from: <https://www.indiatoday.in/india/story/manipur-violence-internet-services-restored-border-areas-exception-meiteis-kukis-2471548-2023-12-04> [Accessed 25 Mar. 2024].

Broadly speaking, the internet shutdowns imposed in India by the individual states can be characterized into two categories – preventive and reactive. The first of the categories is *preventive shutdowns* i.e., shutdowns imposed in anticipation of an event or to prevent an untoward incident which may require internet to be suspended by authorities. The second category is of *reactive shutdowns* i.e., those shutdowns that are imposed in the aftermath of an event, in order to contain a law and order situation. The table 2 given below gives details of few of the internet shutdowns imposed in the recent past identified through the purposive sampling method.

Date	Duration	State/District	Reason	Issuing Authority	Category
Nov 16, 2024	21 Days	Manipur / Nine districts of Imphal West, Imphal East, Bishnupur, Thoubal, Kakching, Jiribam, Churachandpur, Kangpokpi and Pherzawl.	Ethnic violence between the Meitei and the Kuki-Zo community followed by recovery of six bodies from the Jiri and Barak rivers.	Home Department, Government of Manipur <sup>52</sup>	Reactive
Sept 21–22, 2024	5 Hours on 2 Days	Jharkhand / Statewide	To prevent unfair practices in the Jharkhand General Graduate Level Combined Competitive Examination 2024.	Department of Home, Prison and Disaster Management, Government of Jharkhand <sup>53</sup>	Preventive
Feb 11, 2024	13 Days	Haryana / Seven Districts of Ambala, Kurukshetra, Kaithal, Jind, Hisar, Fatehabad, and Sirsa	Amid the call by farmers' unions from Punjab and Haryana to protest in Delhi.	Addl. Chief Secretary, Home Department of the State of Haryana <sup>54</sup>	Preventive
May 3, 2023	212 Days	Manipur / Statewide – extended from two districts Churachandpur and Pherzawl.	Ethnic violence and communal clashes between the Meitei people and the Kuki-Zo tribal community.	Home Department, Government of Manipur <sup>55</sup>	Reactive

<sup>52</sup> News Desk. (2024) *Government lifts mobile internet ban in nine districts after 3 weeks*. [online] The Times of India. Available from: <https://timesofindia.indiatimes.com/india/manipur-government-lifts-mobile-internet-ban-in-nine-districts-after-3-weeks/articleshow/116146794.cms> [Accessed 16 Jun. 2025].

<sup>53</sup> News Desk. (2024) *Jharkhand suspends mobile internet to check malpractice during exam*. [online] The Times of India. Available from: <https://timesofindia.indiatimes.com/india/jharkhand-suspends-mobile-internet-to-check-malpractice-during-exam-all-you-need-to-know/articleshow/113539597.cms> [Accessed 16 Jun. 2025].

<sup>54</sup> News Desk. (2024) *Farmer's protest: Haryana govt extends internet suspension in seven districts till Feb 23*. [online] ANI News. Available from: <https://www.aninews.in/news/national/politics/farmers-protest-haryana-govt-extends-internet-suspension-in-seven-districts-till-feb-2320240222014847/> [Accessed 16 Jun. 2025].

<sup>55</sup> The Hindu Bureau. (2024) *op. cit.*

Date	Duration	State/District	Reason	Issuing Authority	Category
Dec 10, 2022	3 Hours	West Bengal / Uttar Dinajpur, Malda, Murshidabad, Purba Medinipur, Paschim Medinipur and Dakshin Dinajpur	To prevent cheating in TET examination 2022 being conducted for the recruitment of assistant teachers.	Home and Hill Affairs Department, Government of West Bengal <sup>56</sup>	Preventive
Nov 22, 2022	48 Hours	Meghalaya / West Jaintia Hills, East Jaintia Hills, East Khasi Hills, Ri-Bhoi, Eastern West Khasi Hills, West Khasi Hills, and South West Khasi Hills	To maintain law and order situation after reports of violence and arson occurring on Assam–Meghalaya border.	Home (Police) Department, Government of Meghalaya <sup>57</sup>	Reactive
Oct 11, 2022	6 Hours	J&K / Srinagar (within 6 km radius of Bushpora area)	To avoid law and order situation after death of Althaf Ahmad Shah, son-in-law of Late Syed Ali Shah Geelani.	Originally issued by ADGP (Kashmir Zone), subsequently confirmed by Home Department, J&K <sup>58</sup>	Preventive
Oct 10, 2022	16.5 Hours	J&K / Anantnag	To maintain law and order situation after encounter between security forces and the terrorists in Tangpawa area of district Anantnag.	Originally issued by ADGP (Kashmir Zone), subsequently confirmed by Home Department, J&K <sup>59</sup>	Reactive
Aug 21, 2022 and Aug 28, 2022	4 Hours	Assam / Twenty-five out of thirty-one districts of Assam	To prevent cheating in examinations conducted for Grade III and Grade IV government posts.	Home and Political Department, Government of Assam <sup>60</sup>	Preventive

<sup>56</sup> Home and Hill Affairs Department. (2022) *Temp Internet shutdown Order icw TET Examination 2022 on 11th December (Govt. of WB, Dec. 10, 2022)*. [online] Available from: <http://home.wb.gov.in/notice/temp-internet-shutdown-order-icw-tet-exam-1670681143.pdf> [Accessed 29 May 2024]

<sup>57</sup> Home (Police) Department. (2022) *Temporary Suspension of Mobile Internet / Data Services of all mobile service providers in 7 (seven) districts of Meghalaya (Govt. of Meghalaya, Nov. 22, 2022)*. [online] Available from: [https://meghalaya.gov.in/sites/default/files/circulars/HPL\\_199\\_2018\\_31.pdf](https://meghalaya.gov.in/sites/default/files/circulars/HPL_199_2018_31.pdf) [Accessed 29 May 2024]

<sup>58</sup> Home Department. (2022) *Temporary suspension of Internet Services-confirmation (UIT of J&K, Oct 11, 2022)*. [online] Available from: [https://jkhome.nic.in/pdf/48\(TSTS\)of2022.pdf](https://jkhome.nic.in/pdf/48(TSTS)of2022.pdf) [Accessed 29 May 2024]

<sup>59</sup> Home Department. (2022) *op. cit.*

<sup>60</sup> Bapat, K. (2022) *Gauhati HC Decision on Internet Shutdown in Assam*. [online] Internet Freedom. Available from: <https://internetfreedom.in/guahati-hc-refuses-to-restrain-the-government-of-assam-from-suspending-internet-services/> [Accessed 25 Mar. 2024].

Date	Duration	State/District	Reason	Issuing Authority	Category
May 25, 2022	6 Days	Andhra Pradesh / Amalapuram town in Konaseema district	The shutdown was imposed in response to protests opposing the decision of the Andhra Pradesh state government to rename Konaseema District as Dr. B R Ambedkar Konaseema district.	Section 144 Cr.P.C. / Orders not available online / reported in newspapers <sup>61</sup>	Reactive
Oct 27, 2021	4 Hours	Rajasthan / Jaipur, Bharatpur, Bikaner, Sawai, Hanumangarh, Madhopur and Ajmer	To prevent cheating in RAS prelims Exam 2021.	Divisional Commissioners, Police Commissionerate <sup>62</sup>	Preventive
Oct 24, 2021	2 Days	J&K / Zainapora Belt of district Shopian	After the killing of a civilian in Babapora Zainapora.	Orders not available online / reported in newspapers <sup>63</sup>	Reactive
Oct 23, 2021	12 Hours	Rajasthan / Jaipur and Dausa	In order to curb the spread of fake news, rumours and prevent question paper leakage during the conduct of the Patwari Direct Recruitment Examination-2021.	Jaipur Divisional Commissioner <sup>64</sup>	Preventive
Oct 18, 2021	1 Day	J & K / Parts of Srinagar District	After the killing of civilians in the Srinagar by terrorists.	Orders not available online / reported in newspapers <sup>65</sup>	Preventive
Oct 06, 2021	7 Days	Chhattisgarh / Kawardha District	On account of communal tensions between two religious groups.	District Collector <sup>66</sup>	Reactive

<sup>61</sup> Software Freedom Law Center. (2022) *7 Day Long internet shutdown in Andhra Pradesh in violation of Supreme Court of India Guidelines: RTI Response*. [online] Available from: <https://sflc.in/7-day-long-internet-shutdown-andhra-pradesh-violation-supreme-court-india-guidelines-rti-response/> [Accessed 25 Mar. 2024].

<sup>62</sup> TNN. (2021) *Internet Shutdown in Rajasthan: Mobile Internet Suspended for RAS Prelims Exam across Rajasthan Today*. [online] The Times of India. Available from: <https://timesofindia.indiatimes.com/city/jaipur/mobile-net-suspended-for-ras-prelims-exam-across-raj-today/articleshow/87290703.cms> [Accessed 16 Sep. 2023].

<sup>63</sup> News Desk. (2021) *Internet Suspended for Second Day in South Kashmir's Zainapora Belt*. [online] The Kashmir Valla. Available from: <https://thekashmirwalla.com/internet-suspended-for-second-day-in-south-kashmirs-zainapora-belt/> [Accessed 16 Sep. 2023].

<sup>64</sup> TNN. (2021) *Patwari Exam: Mobile Internet Banned in Jaipur, Dausa till 6pm*. [online] The Times of India. Available from: <https://timesofindia.indiatimes.com/city/jaipur/patwari-exam-mobile-net-banned-in-jaipur-dausa/articleshow/87214485.cms> [Accessed 16 Sep. 2023].

<sup>65</sup> Wani, A. (2021) *Mobile Internet Services Suspended in Parts of Kashmir as Precautionary Measure*. [online] India Today. Available from: <https://www.indiatoday.in/india/story/internet-services-jammu-kashmir-districts-terror-attacks-1866205-2021-10-18> [Accessed 16 Sep. 2023].

<sup>66</sup> John, J. (2021) *Chhattisgarh: Internet Suspended in 3 Districts after Two Groups Clash, Curfew Imposed in Kawardha*. [online] The Times of India. Available from: <https://timesofindia.indiatimes.com/city/raipur/chhattisgarh-communal-clashes-internet->

Date	Duration	State/District	Reason	Issuing Authority	Category
Oct 3, 2021	2 Days	Uttar Pradesh / Lakhimpur Kheri and Sitapur Districts	Over violence resulting during farmers protest which resulted in the death of eight including four protesting farmers.	Orders not available online / reported in newspapers <sup>67</sup>	Reactive
Sept 27, 2021	6 Hours	Rajasthan / Alwar, Dausa, Jaipur, Jhunjhunu and Sikar Districts	On the eve of the Rajasthan Eligibility Examination for Teachers (REET), 2021, internet was suspended to prevent any deterioration of law and order situation due to fake news, rumours of accidents, paper leak etc.	Divisional Commissioners <sup>68</sup>	Preventive
Sept 06, 2021	24 Hours	Haryana / Karnal, Kaithal, Jind, Kurukshetra and Panipat Districts	In the wake of the farmers' protest against the August 28 police lathi-charge.	Addl. Chief Secretary, Home Department of the State of Haryana <sup>69</sup>	Preventive
Sept 02, 2021	5-6 Days	J & K / Kashmir Valley	Internet was shut down as a precautionary measure after the death of separatist leader Mr. Syed Ali Geelani.	Orders not available online / reported in newspapers <sup>70</sup>	Preventive

Table 2: Internet shutdowns imposed during 2021-2024

Upon reviewing the data above, it appears that internet shutdowns in Indian states arise from various circumstances, including communal tensions, widespread protests, fears or actual outbreaks of violence, the impasse between security forces and terrorists, and measures to prevent examination cheating. Although the imposition of internet shutdowns is warranted when a situation showing grave danger to the maintenance of law and order has arisen, there are situations in which to preserve law and order; it is dubious

services-suspended-in-3-districts-curfew-imposed-in-kawardha/article/86804843.cms [Accessed 16 Sep. 2023].

<sup>67</sup> News Desk. (2021) *Uttar Pradesh: Internet Services Shut in Lakhimpur Kheri, Sitapur*. [online] The Mid-Day. Available from: <https://www.mid-day.com/news/india-news/article/uttar-pradesh-internet-services-shut-in-lakhimpur-kheri-sitapur-23195427> [Accessed 16 Sep. 2023].

<sup>68</sup> Khan, H. (2021) *Rajasthan Shuts Internet as 16 Lakh Appear for REET 2021*. [online] The Indian Express. Available from: <https://indianexpress.com/article/jobs/rajasthan-shuts-down-internet-as-16-lakh-sit-for-teacher-exam-7536304/> [Accessed 16 Sep. 2023].

<sup>69</sup> News Desk. (2021) *Internet Shutdown in Five Haryana Districts Ahead of Farmers' Protest*. [online] The Tribune. Available from: <https://www.tribuneindia.com/news/haryana/internet-shutdown-in-five-haryana-districts-ahead-of-farmers-protest-307753> [Accessed 16 Sep. 2023].

<sup>70</sup> News Desk. (2021) *Curfew-like Curbs Imposed in Kashmir, Internet Shut as Separatist Leader Geelani Buried in Srinagar*. [online] News18. Available from: <https://www.news18.com/news/india/syed-ali-geelani-death-separatist-leader-buried-kashmir-srinagar-pakistan-internet-shut-curfew-4155038.html> [Accessed 16 Sep. 2023].

whether such measures should be utilized to administer examinations or prevent cheating. Further, an examination of the data above indicates that the duration of the internet shutdowns can fluctuate significantly, ranging from a few hours to several days, weeks, months, or even years, contingent upon the severity of the circumstances. The subsequent section analyses specific irregularities that were identified during the process of issuing internet suspension orders in India.

## **5. INTERNET SHUTDOWN ORDERS VIS-A-VIS COMPLIANCE WITH STATUTORY LAW AND THE SUPREME COURT GUIDELINES**

This section seeks to determine whether the central and state government authorities are adhering to statutory and judicial directives when implementing internet shutdowns. Listed below are some of the most egregious irregularities observed in the manner of notification of internet suspension orders:

### **5.1. MECHANICALLY ISSUED ORDERS LACKING EVIDENT APPLICATION OF MIND**

A perusal of the internet shutdown orders issued in the State of Rajasthan in 2021<sup>71</sup> reflect non-application of mind by the concerned authorities. The Divisional Commissioners have issued three identical internet shutdown orders, following the same template, for preventing cheating during state-level examinations. Such mechanical orders display a lack of proper examination and consideration of specific circumstances and factors involved in each case, necessitating the suspension of internet services. The standard practice followed is that the bureaucrats have recommended suspensions based on "law and order" concerns, without justifications. This contradicts Supreme Court guidelines, which require them to adhere to the *proportionality test* and explain why the internet shutdown is necessary, unavoidable and the least intrusive remedy in the situation at hand.

### **5.2. NON-COMPLIANCE WITH SUSPENSION RULES, 2017: ORDERS ISSUED BY INCOMPETENT AUTHORITIES, WITHHELD FROM PUBLICATION, OR LACKING PROCEDURAL SAFEGUARDS**

As per the Suspension Rules, 2017, the internet shutdown orders can be issued by the Secretary to the Government of India in the Ministry of Home Affairs in the case of Central Government and the Secretary to the

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<sup>71</sup> News Desk. (2021) Internet Suspended for Second Day in South Kashmir's Zainapora Belt. *op. cit.*; Wani, A. (2021) *op. cit.* and News Desk. (2021) Internet Shutdown in Five Haryana Districts Ahead of Farmers' Protest. *op. cit.*.

State Government in-charge of the Home Department in the case of a State Government. A perusal of the various internet shutdown orders in the preceding section, particularly in the states of Rajasthan, Chattisgarh & J&K in the year 2021<sup>72</sup>, reveals that at times internet shutdown orders are not being issued by the competent authorities and are many a times untraceable on the state government/departmental websites. The non traceability of the internet shutdown orders is particularly worrisome as it undermines the right of the citizens to move the courts of law in case of an alleged infringement of fundamental rights guaranteed under Arts. 19(1)(a) & (g) of the Indian Constitution and impedes judicial scrutiny of the orders to avoid imposition of arbitrary internet shutdowns. Further, in the case of Manipur, where internet shutdown orders were imposed following the outbreak of ethnic violence in May 2023 and remained in effect for 212 days, the procedural safeguard mandated under the Telecom Suspension Rules—the constitution of a Review Committee chaired by the State’s Chief Secretary to evaluate the legality of such orders—appears to have been bypassed. There is no public record indicating that this committee was ever convened or that it reviewed any of the successive shutdown orders issued by the Manipur Home Department.<sup>73</sup>

### 5.3. ORDERS ISSUED ON TRIVIAL GROUNDS, SUCH AS PREVENTING CHEATING DURING STATE-LEVEL EXAMINATIONS

A perusal of the various internet shutdown orders, particularly in the states of Assam, Rajasthan & West Bengal,<sup>74</sup> reveal that internet shutdown orders are being regularly issued on the pretext of avoidance of cheating and paper leak in various state level examinations. This trend is especially concerning due to the fact that the imposition of internet outages for examination administration is excessively disproportionate and violates the Supreme Court’s *test of proportionality*. As these orders severely restrict fundamental liberties protected by Articles 19(1)(a) and (g), they should only be issued under the most extraordinary conditions.

<sup>72</sup> News Desk. (2021) Internet Suspended for Second Day in South Kashmir’s Zainapora Belt. *op. cit.*; TNN. (2021) *op. cit.*; Wani, A. (2021) *op. cit.*; John, J. (2021) *op. cit.*; News Desk. (2021) Uttar Pradesh: Internet Services Shut in Lakhimpur Kheri, Sitapur. *op. cit.*; News Desk. (2021) Internet Shutdown in Five Haryana Districts Ahead of Farmers’ Protest. *op. cit.*

<sup>73</sup> Singh, T. & Waghere, P. (2023) *Statement: 100 Days of Manipur’s Ongoing Illegal Internet Shutdown & Violation of Fundamental Rights*. [online] Internet Freedom Foundation. Available from: <https://internetfreedom.in/manipur-100-days-internet-shutdown/> [Accessed 16 Jun. 2025].

<sup>74</sup> Home (Police) Department. (2022) *op. cit.*; Software Freedom Law Center. (2022) *op. cit.*; News Desk. (2021) Internet Suspended for Second Day in South Kashmir’s Zainapora Belt. *op. cit.*; Wani, A. (2021) *op. cit.* and News Desk. (2021) Internet Shutdown in Five Haryana Districts Ahead of Farmers’ Protest. *op. cit.*

In the case of Jharkhand, where internet services were suspended to prevent unfair practices during the Jharkhand General Graduate Level Combined Competitive Examination 2024<sup>75</sup>, the matter was brought before the Jharkhand High Court.<sup>76</sup> In its order dated September 22, 2024, the Court set aside the state government's decision to impose a blanket suspension of all internet services across the state. It held that the stated grounds—namely, "public interest", "adequate safety of students", and "ensuring fair examination"—lacked factual substantiation and were insufficient to justify such a broad restriction.<sup>77</sup> The Court further observed that while the initial suspension order of the state government was limited in scope and duration, the subsequent modification expanding it to include broadband and fixed-line services amounted to an overreach. Reaffirming that access to the internet is essential to the exercise of fundamental rights under Article 19 of the Constitution, the Court directed that no further suspensions in connection with examinations be carried out without its prior approval for the duration of the proceedings.<sup>78</sup>

It is submitted that in a country like India, which is over a billion people strong, the conduct of examinations should not be seen as such an emergent situation which necessitates shutdown of internet services. Moreover, in case every state in the nation were to adopt this practice, the frequency of internet outages would escalate to a level that would be beyond control. Hence, it is imperative that competent authority must explore alternative measures prior to implementing internet service interruptions for examination purposes.

## 6. CONCLUSION AND SUGGESTIONS

Just as Gutenberg's printing press had helped to spread the liberal and scientific ideas in Europe during the age of Reformation, the Internet also has the potential to support the respect, protection and implementation of all human rights for people worldwide. In this quest, the freedom of expression becomes a crucial enabling right. There are, however, difficulties in preserving freedom of expression on the internet. Traditionally, as the human right to freedom of expression is often has been used state authorities, the later are inclined to censor or control the freedom of speech and expression. Internet shutdowns are one such control mechanisms employed by the governments to control freedom of internet. The imposition of internet

<sup>75</sup> News Desk. (2024) Farmer's protest: Haryana govt extends internet suspension in seven districts till Feb 23. *op. cit.*

<sup>76</sup> *Rajendra Krishna Vs. State of Jharkhand* (2024) SCC OnLine Jhar 3349.

<sup>77</sup> *Rajendra Krishna Vs. State of Jharkhand* (2024) *op. cit.* para 18.

<sup>78</sup> *Ibid.*

shutdowns not only disrupts the normal functioning of society but also impinges upon the democratic ethos of the nation.

Through this study, the author has attempted to highlight the human rights challenges posed by imposition internet shutdowns in India. Particularly, it has emphasized the importance of preserving freedom of Internet, as the right to access information and the right to freedom of speech and expression have become increasingly intertwined with internet access. The findings of this study suggest that many internet shutdown orders have been imposed by central and state governments during the period 2021-24 without adhering to statutory, procedural, and judicial guidelines. The analysis of various internet shutdown orders revealed glaring anomalies, including mechanical issuance of orders without proper application of mind, issuance of orders by unauthorized individuals, bypassing procedural safeguards, and the imposition of shutdowns for relatively minor concerns such as exam-related issues.

India's adoption of the Suspension Rules, 2024, represents a formal upgrade to the legal framework governing internet shutdowns. However, the 2024 Rules fall short of addressing several critical deficiencies that plagued the earlier Suspension Rules, 2017, limiting their practical effectiveness. While the new framework introduces procedural improvements, such as clearer structuring of suspension orders and the requirement to consider the availability of alternative measures, significant weaknesses persist. The Review Committee continues to function as an opaque, internal body lacking judicial or independent representation. The absence of a mandate for real-time publication of shutdown orders undermines transparency and restricts access to timely legal remedies. Moreover, the lack of any penalty for misuse enables authorities to issue suspension orders on questionable grounds without accountability. Without robust enforcement, independent oversight, and mechanisms for redress, the 2024 Rules risk serving as a cosmetic reform. A rights-based framework, grounded in transparency, necessity, and proportionality, is essential if digital access is to be meaningfully protected as a constitutional right rather than administered as a discretionary privilege.

In order to prevent abuse of the process, it is imperative that the centre and state governments must comply with the statutory, procedural and judicial guidelines, particularly the ones laid down in *Anuradha Bhasin's* judgment in letter and spirit. In particular, the centre and state governments must adhere to the test of proportionality, and impose internet shutdown only as a last resort. Indefinite internet shutdown orders are specifically prohibited and the governments must proactively publish all internet shutdown orders of the

state on the home department's official website in real time and also widely disseminate the orders information through various means of the media. Additionally, the central and state governments need to make sure that the orders for internet shutdowns are given by the competent authorities and are not issued in a robotic fashion; rather, the orders need to be well-reasoned and demonstrate the application of the competent authority's judgment. It is submitted that the implementation of internet shutdown orders under the guise of averting cheating during examinations should be strongly discouraged. Instead, the authorities must implement measures for stricter invigilation by using the latest technology, such as surveillance cameras and proctoring software. Simultaneously, it is the responsibility of the central and state governments to ensure the prompt appointment of a Review Committee and to facilitate the obligatory evaluation of any existing suspension order and any extension orders, if applicable, in accordance with the strictly defined guidelines laid down in *Anuradha Bhasin's* ruling. Strict compliance with these guidelines will prevent arbitrary suspension of internet services in the country in the long run.

At the same time, India's legal, regulatory, and judicial approach to internet shutdowns offers important lessons for other countries, presenting both advantages and areas for improvement. The transition from using Section 144 of the Cr.P.C. to the more specific *Suspension Rules, 2024* reflects a move towards a more structured and transparent legal framework. This shift highlights the necessity of modern legal standards for managing shutdowns, ensuring clarity on the permissible grounds for such actions. The *Anuradha Bhasin case* further emphasized the importance of judicial oversight, introducing safeguards like the *proportionality test* to ensure shutdowns are used only when absolutely necessary and for a limited time. The judiciary's role in reviewing shutdowns and ensuring they comply with constitutional principles, such as the rights to free speech and profession, offers a robust system for protecting fundamental rights. Further, India's requirement for review committees (established under the *Suspension Rules, 2017 & 2024*) to assess the legality and necessity of internet shutdowns serves as a check against misuse. Other countries should implement similar review processes to hold authorities accountable and prevent the unwarranted use of shutdowns.

India's approach also reveals significant challenges. One major issue is the frequent overreach in the use of internet shutdowns, particularly when imposed for relatively minor concerns like preventing cheating during exams. Such actions show how shutdowns can be misused, violating the principle of proportionality. Furthermore, transparency remains a concern,

as shutdown orders are often not published or explained in detail, limiting public scrutiny and legal recourse.

Overall, India's experience offers both positive frameworks for managing shutdowns—through judicial review, proportionality, and modernized regulations—and lessons in avoiding misuse through better enforcement of transparency, accountability, and limitations on shutdowns for trivial reasons. Other countries can benefit from adopting India's legal safeguards while addressing the gaps seen in practice.

Ultimately, democratic systems across the world must foster societies that uphold the values of accountability, transparency, and adherence to the rule of law. By prioritizing the protection of fundamental liberties and upholding the Constitution's ethos, democracies can ensure that the digital age remains an era of progress, innovation, and inclusivity for all its citizens.

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