

# JOINT UNIVERSAL PERIODIC REVIEW, INDIA

## RECOMMENDATIONS

INTERNET RIGHTS, FREEDOM OF EXPRESSION (FOE) AND FREEDOM OF  
ASSOCIATION AND ASSEMBLY (FOAA) ONLINE IN INDIA



# RECOMMENDATIONS

## **Coalition Recommendations to the Universal Periodic Review of India - Internet Rights, Freedom of Expression (FOE) Online and Freedom of Association and Assembly (FOAA) Online in India**

**Digital Empowerment Foundation (DEF), Internet Democracy Project, Point of View (POV), Nazdeek and Association for Progressive Communications (APC)**

**For Consideration at the 27th Session UN Working Group in 2017**

### **Access:**

1. Ensure effective implementation and monitoring of programmes aimed at increasing universal, affordable, unhindered and democratic access to information and to the internet, in accordance with international human rights standards.
2. Further implementation of the existing domestic programmes that aim at achieving accessibility, availability and transparency of information in the public domain.

### **Freedom of Expression (FoE):**

3. Ensure that restrictions placed on the exercise of human rights including the right to freedoms of expression, assembly and association on the internet need constitutional and international guarantees.

### **Freedom of Association and Assembly (FoAA):**

4. Address violation of FoAA in compliance with international mechanisms and standards.

### **Internet Shutdowns:**

5. Immediately end the use of section 144 of the IPC<sup>1</sup> to justify network shutdowns in the name of law and order, as such shutdowns negatively affect access to information, transfer and crucial communication services in the area, in addition to emergency humanitarian services; and hence they violate FoE and FoAA.

### Privacy and Surveillance:

6. Comply with orders passed by the Courts to remove the mandatory requirement of the Aadhaar<sup>2</sup> for delivery of welfare services by the government. Additionally, prohibit UIDAI<sup>3</sup> from disclosing biometric information or detailed fields of demographic information to government bodies or private bodies seeking authentication. Place strong penalties and create redressal mechanisms for breach of data either by sub-contractors, private parties or government agencies.
7. Ensure that a comprehensive legislation is put in place to provide strong protections of the right to privacy.
8. Prescribe clear limits on state surveillance in accordance with international standards, and discontinue bulk collection of citizen data which violates the right to privacy of citizens.

### Gender and the Internet:

9. Take steps to respect, promote and protect full access for all women, particularly in contexts where non-legal restrictions are imposed on access to the internet.
10. Ensure that rights and laws are such that they keep open for women and sexual minorities the possibilities of exploring digital spaces to express themselves, including their sexuality.
11. Strengthen the use of Section 66E (non-consensual images) of the IT Act, in dealing with cases of harassment involving non-consensual circulation of text, videos, etc, leading to privacy violations.

.....

1. Section 144(1) of CrPc- 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 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, or an affray.
2. Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Bill, 2016, available at: [https://uidai.gov.in/images/the\\_aadhaar\\_act\\_2016.pdf](https://uidai.gov.in/images/the_aadhaar_act_2016.pdf)
3. Unique Identification Authority of India (UIDAI) is a government agency in New Delhi, India that serves as the issuing authority for Aadhaar unique identification numbers (UIDs) and cards.

