

JOINT UNIVERSAL PERIODIC REVIEW SUBMISSION

SUMMARY

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



NAZDEEK

SUMMARY

UPR 3 India Cycle 2017

Coalition Partners – Digital Empowerment Foundation (DEF), Internet Democracy Project (IDP), Point of View (POV), NAZDEEK and Association for Progressive Communications (APC)

During the second cycle of the UPR, 2012, India received two recommendations on freedom of expression on the internet in accordance with international standards and obligations; and ensuring a safe environment for journalists. One of the two was accepted in revised form, while the other was not accepted by the Government of India (GoI). In four years (2012 - 2016), the GoI has made little to no progress in this area; reprisals by the State as well as non-state actors, against dissenters based on moralistic ideologies have been observed.

Since 2014, State-led crackdowns on freedom of expression (FoE) and speech on the internet has substantially increased. The nature of attacks ranges from censorship to website/application blocks; enforced internet shutdowns and arrests of citizens for engaging in online political activities, specifically on social media platforms such as Twitter, Facebook and WhatsApp.

Internet shutdowns mean that internet service providers are instructed to snap 2G, 3G, GPRS, lease line and/or broadband services in the specified regions. Internet shutdowns violate the right to freedom of expression, association and assembly by blocking access to the space where we can exercise these rights democratically.

Till September 2016, there have been internet shutdowns in Jharkhand, Jammu & Kashmir and Gujarat. In 2015, Internet services were shut down in Nagaland, Gujarat, Manipur, Kashmir, Rajasthan. In 2013 and 2014, Internet services were temporarily banned in Kashmir & Gujarat for reasons like preventing cheating in an examination, preventing an apprehension of violence etc. These shutdowns happen through opaque means with the state having little accountability and utilising arbitrary thought processes to enforce these shutdowns.

Reported cases indicate a lack of transparency and non-compliance with procedures established by national law and international standards when it comes to blocking and censorship. Often times state action against FOE is triggered based on arguments relating to upholding moral and religious standards. Extensive use of national legislation including the sedition law (section 124A of the IPC) to curtail FOE, FOAA, and regressive provisions such as Sections 66A, 67, 67A, 69, 69A and 69B of the Information and Technology Act, 2000 (IT Act) against FOE has been on the rise.

Denying access to the internet to discourage Freedom of Association and Assembly (FoAA) is not only a human rights violation but also violates international law. Increasingly, civil society groups and activists are using online spaces to mobilise, disseminate information & resources and campaign for human rights. More often, offline threats to individuals and associations are reflected and enhanced in online spaces owing to the nature of communication on the internet, i.e. lack of geographical restrictions and anonymity etc.

Gendered socio-cultural norms and practices are increasingly restricting women's access to digital technologies. Women face more familial and societal censure than men for accessing technology and the internet. In villages of Uttar Pradesh, Rajasthan and Gujarat, khap panchayats have banned young and unmarried women from using mobile phones. These actions further restrict women's access not just to digital technologies but also to information and avenues for speech and expression.

Domestically, the number of intelligence agencies are increasing, and their powers are exercised without judicial or legislative oversight. Several new intelligence gathering bodies have been formed in the last 4 years, leading to increasing citizen data collection in the name of improving governance and eliminating threats to national security, without concomitant privacy protections. This includes the Central Monitoring System which got operationalised recently in 2017.

In the last two years, there have been several cases of 'rape videos' being circulated online, particularly on messaging services, social media and adult sites. These are all cases of actual rapes which are recorded and circulated by the perpetrators and are used to blackmail or threaten women into silence. Several of these cases are now before the Supreme Court, which has directed the Indian government to take action.

Additionally, the Gol has taken a public position recognising access to internet as a human right during the launch of the Digital India Initiative in 2015. Despite the efforts to bridge the access gap, there is a substantial gap between policy, programmes and the implementation; only 15% of the population has access to internet and internet penetration in rural India stands at only 9%. The National Optical Fibre Network, a project aimed at connecting 250,000 village councils has only achieved 6% success rate in the first phase; which was targeted at 100,000 councils.

