

THINKING ALOUD!

HELPING YOU THINK ONLINE

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Internet Freedom

Is It A Universal Concept?

Editorial

One of the great powers of internet is that it empowers each one of us to speak, create, learn and share. Today, more than two billion people are online — about a third of the planet. The internet has become one of the engines of the 21st century economy, allowing all of us to reach a global audience at a click of a mouse and creating hundreds of thousands of businesses and millions of jobs. According to an OECD study, the Internet already accounts of 13 percent of American business output, impacting every industry, from communications to cars, and restaurants to retail. India is not far behind. It is not since Johannes Gutenberg invented the printing press, or probably Alexander Graham Bell the telephone, has a human invention empowered so many and offered so much possibility for benefiting humankind.

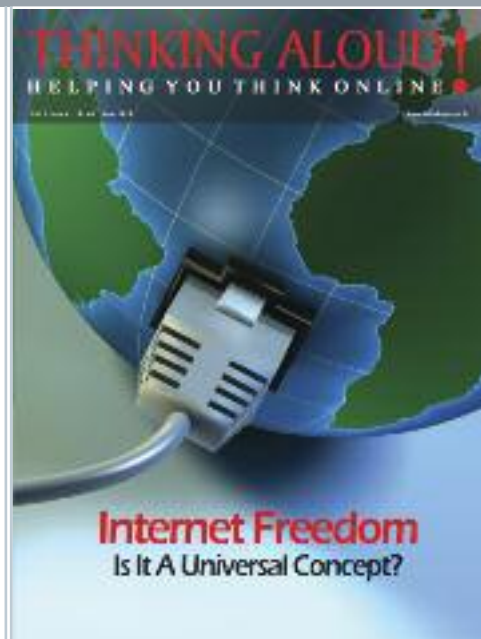
Over the years, business models have been built around borderless access. Businesses today are not limited by boundaries, thanks to Internet. Come to think about it – the internet has opened up a new ‘Digital Market’ where products, services, messages, campaigns and ideas can now travel across boundaries, allowing people from different continents to communicate and collaborate, and for startups to go Global. The Internet and other communication technologies have opened up plethora of opportunities.

However, one has to keep in mind that the concept of territorial freedom follows the contours of the constitution of a country. While, there are varied and diverse viewpoints – some justified, some not – it is clear that as a nascent internet using country, many of the users are not aware of what one can legally do or not do on the internet. Many of us are not aware that internet is a public medium which in India is governed not only by the IT Act but also by other laws and regulation in force in the country.

How to strike this balance is a complex and delicate proposition and there are no easy answers to it. In this issue of *Thinking Aloud!*, we have tried to explore this question, and bring to you articles written by experts who deal in this issue of internet freedom.

As always, do let us know your opinion, and both bouquets and brickbats are welcome.

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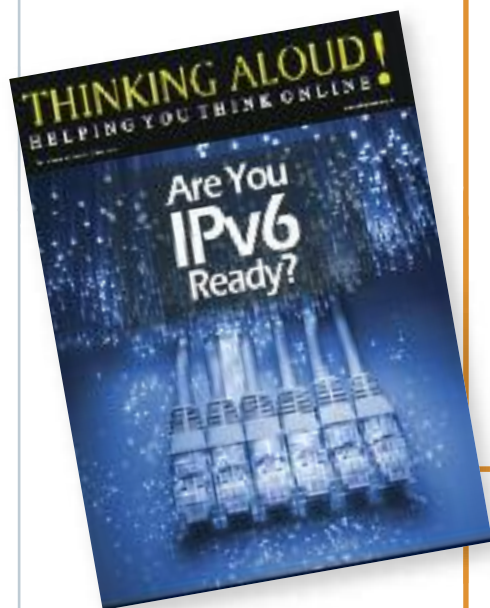
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Letters to the editor



Since IPv6 extends the number of network address bits to 128 bits as against 32 bits in IPv4, this will ensure that the unlimited address space offered by IPv6 will deliver better and newer applications and services that are reliable, more secured and offers improved user experience. I think the adoption of IPv6 protocol can help in combating cybercrime, which is on the rise in India. Also, the launch of National Internet Registry (NIR) will make it easier and a lot cheaper for ISPs to buy IP addresses. This means that providers can buy IP addresses locally instead of depending on foreign players such as Asia Pacific Network Information Centre (APNIC). This will reduce cost in procuring IP address. Great move.

N. S. Sinha, Bangalore

In my humble opinion, IPv6 is essential for reaching the entire internet. A number of trading partners one may want to work with will increasingly be making more use of IPv6 than IPv4, particularly in Asian countries, but also service providers and operators in the US. I think, the least developed countries have some of the largest growth in internet deployment and they will be on IPv6. This was a timely issue, and kudos to the editorial team of *Thinking Aloud!* for coming out with a topic which is so relevant in today's time. Cheers

N. Saha, Kolkata

While all efforts are being made to migrate to IPv6, I think planning for IPv6 deployment needs to start now and the decision makers should give it a serious thought. Enterprises – both in PSU and private sectors - deploying IPv6 should discuss, develop, and implement strategies for making the transition to IPv6. For India to be ready for IPv6, there has to be an IPv6 ecosystem that will include the government, private players, ISPs and third-party partners. Now is the time for both the government organizations and private sector enterprises to go beyond the planning stage and implement the new standard in order to start reaping its benefits.

S. Memon, Mumbai



We thank all our readers for the feedback. We say, keep them coming.

It heartens us to hear your ideas and broadcast your thoughts.

Write to us at
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While there is no doubt that the migration and deployment is inevitable, yet there is one hindrance and that is budget cuts. Migration upgrading and changes are not always welcome in the private sector today as they are all directly proportionate to cost, hence most enterprises are playing this threat in a low key. However, I believe, enterprises will go ahead despite the cost factor

S. Kohli, New Delhi

Let's Not Throw Away Our Digital Freedom

IN our digital world, almost two and a half billion people have access to the internet. In the next few years, many millions even billions more will join them as costs fall and as it gets ever easier to access the world wide web through your mobile phone. India is one of the main countries where access to the internet is likely to take off exponentially.

Will these billions of people have genuine freedom on the internet – will they be able to exercise their rights to freedom of expression online as well as offline? Or will some of the pressures and demands out there to control the internet win the day?

The internet has certainly given new force to the definition of freedom of expression contained in the Universal Declaration of Human Rights which talks about “freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”. Sharing ideas and views, debating with people across borders, swapping photos and videos, accessing information, being a citizen journalist or your own publisher – all of this and more has been made easier or even possible for the first time through the explosion of communication and knowledge-sharing that the net allows.

Not everyone has had equal access to these new digital possibilities. In China, Iran, North Korea and other similar authoritarian countries, access to the internet is either closely controlled and/or carefully censored, filtered, and monitored. The same technologies that allow



Kirsty Hughes
CEO Index on Censorship

ease of communication around the world also enable a range of means of surveillance and censorship to be used.

And in other countries, access to the internet has been one that higher income groups and individuals have achieved ahead of other groups. In the European Union, the majority of the population in the 27 member states have access to the internet but there is still a digital divide meaning that some of the poorest people – and some of the most remote geographical areas – still lack access. In India, where most people now have a mobile phone, only a small minority have internet access.

However, as the costs associated with accessing the internet through a mobile phone fall – and related infrastructure is put in place – we are set to see the problem of the digital divide start to disappear. Indeed, as the importance of the internet in many people's daily lives has grown, some have started to argue that access to the internet should be seen

as a basic right – along with access to water or the right to free expression.

This looks like a win-win situation: the easier access to information, knowledge, debate and opinion that the internet allows means it is easier to hold those in power – in government, business or elsewhere – to account. It makes it easier to track corruption or ensure transparency. But it is not only those in power in authoritarian states like China and Iran that are unhappy at this growth in freedom.

The rapidly changing face of the internet – ten years ago none had imagined something like Twitter developing – means the challenges of social media and the digital world keep provoking new debate. Some people find some of the views expressed on websites or through social media like Facebook or Twitter offensive – and some of them ask for the views to be blocked or censored. But in the offline world, people are offensive too – freedom of expression means freedom for views to be expressed that we disagree with or dislike not just the ones we are comfortable with. If we all had the right to censor and control the views we don't like, there would be no free speech at all.

Yet in both India and the UK, there are laws on the statute book that criminalise “grossly offensive” speech online – and these laws have been used in both countries to arrest and in some cases prosecute people for things they posted on Facebook or Twitter or elsewhere. One of the ironies in this, is that the root of these Indian and British laws is an English law from the 1930s (rather a



long time before the internet was invented) which aimed at stopping offensive phone calls to public telephone operators.

Most people would agree that speech – online or off – that directly incites violence may be subject to some controls. But there is no right not to be offended in the various international human rights charters. In the UK, there are new ‘interim’ guidelines that aim to limit and restrict the number of prosecutions of offensive remarks on social media but, as in India, the possibility of

The easier access to information, knowledge, debate and opinion that the internet allows means it is easier to hold those in power – in government, business or elsewhere – to account.

finding your Facebook posting is considered by someone to be “grossly offensive” remains.

Many governments in democratic countries are considering whether or when they should introduce some form of filters or blocks on websites – what in pre-digital times we would have called censorship. The simple rule here should be that rights (and laws) apply online just as they do offline. How to apply the rules can though be problematic – and website blocking of illegal activity can deliberately or by mistake easily

block entirely legitimate sites.

Many governments, both democratic and undemocratic, asked Google to block access in their countries to the 'Innocence of Muslims' video which some found offensive. Citizens of those countries need to ask whether they want their governments to decide for them what is or is not offensive or whether those decisions should be left to each individual – no one has to watch the video after all, though that did not stop many who hadn't seen it declaring it offensive.

A further challenge to our digital freedoms is the extensive monitoring and surveillance which digital technology facilitates. As we move online – through desktops, smart phones, ipads and other devices, we leave a whole trail of digital information about ourselves: where we've been (on and offline), what we like, who we are in touch with, what we think about a range of issues.

And it is not only big companies who collect up all this data to help them with targeted advertising. Governments too find it hard to resist the lure of monitoring very widely – even across their entire population – in the declared interests of tackling crime and protecting security.

But surely it is in countries like those of the former Soviet bloc, or today's China, where we should expect, and condemn, such extensive monitoring. In democracies, like Britain, India or the US, monitoring should be limited and proportionate. Yet we find the US tops the list for requests to Google for user information (three times more requests than India which is in second place).

In a few years time, the majority of the world's population will have access to the internet. The big challenge in the coming years is to ensure that we keep and defend our freedom of expression online just as we defend it offline.

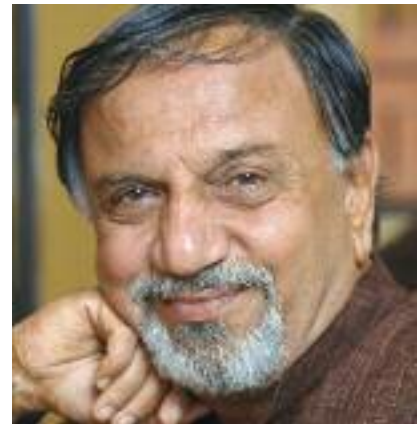
Views expressed here are personal.

'More Freedom Does Not Harm In The Long Run, Lack Of It Does'

THE concept that there could be a viable business model which could give information and communication free, was perhaps one of the biggest paradigm changes in business which was brought about by Internet. The idea that without a defined enforceable, hierarchy the world could collaborate to ensure extremely reliable services was the other major contribution of a new way of working. The credibility of Wikipedia is fairly high today. Freedom from a price and an attrition driven competition, were the two great changes in the way business is done, for which the entire credit goes to Internet and its innovators and entrepreneurs.

However, this great revolution has brought in its wake certain problems for people, organisations and States. The fact that Internet coupled with social media has the power to spread any information or facts in a very short time is causing some concern.

These may be true or false, but have the potential of creating strong reactions and public opinion. This could result in damaging reputations or causing great anxiety or stress to individuals, Institutions or States. There are fears that they also have the potential to spread rumors extremely fast, which could cause major riots and violence. Having said this, I am not able to identify any significant damage done because of the freedom enjoyed on internet. Embarrassment and inconvenience



Shailesh Gandhi

Former Central Information Commissioner

has certainly been caused, but significant damage does not really appear to have been caused. It must also be appreciated, that a counter view or information can also be spread very fast. Individuals and Institutions generally claim they value transparency very highly, but usually it means they want others to be transparent. This is a common weakness and translates into opposing the extraordinary and equitable freedom which Internet provides.

By and large Internet communities do not spread completely false or malicious reports very fast. Just as the ability to print did not do great damage to society, - but made the spread of information fast and easy; - internet is now poised to give a similar Information freedom to individuals.



There are a very large number of TV channels which are also broadcasting live events, -maybe even fake news, - 24 hours. This has not disturbed the equilibrium or equanimity of society in any significant manner. Information freedom is a strong aspiration of people and the internet is fulfilling this very well. It empowers the individual directly to give and receive information and communications. It also facilitates individuals voicing their views directly, and discussing and debating.

Those who wield power are afraid that the common man is not mature enough to handle information or misinformation. I think this fear is born out of the heady misleading arrogance of those in power.

I am not able to see any real problem coming to human society because of Internet Freedom. Human beings have the uncanny capacity and capability of displaying collective wisdom even when they are acting individually. This ability has been demonstrated worldwide as Nations

have taken to democracy.

It is also significantly noteworthy that greater progress has generally been achieved by Nations which followed the democratic route and placed their faith in individual citizens displaying wisdom collectively. More freedom does not harm in the long run, lack of it does.

All countries have laws to safeguard citizens against defamation and malicious misinformation. Generally they are adequate. Internet also has this self-regulation built-in. I am willing to accept all who send a

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request as friends on Facebook and have over 4200 presently. I have not found any real problem with most of them. One or two were making very obscene posts and I blocked them. Even on email I do receive some repetitive or useless posts. I chose not read them and do not feel very irritated or worked up about these.

My email has a signature line 'All my emails are in Public domain', and I cannot recall any instance of my regretting this statement in the last decade when I have been using internet. Let us cherish and celebrate this liberation and freedom, and let those who are scared of freedom build cages for themselves. If they try and enforce those cages of ignorance around us, we must protest. *Vive La Freedom.*

Views expressed here are personal.

Internet Freedom -The Conflicts and the Solutions

'FREEDOM" is a concept more complex than what it appears to be. Every human being who has the power to think always wants freedom. But what one wants is "Freedom for Self" and not necessarily "Freedom for All". This creates a challenge for the society since the concept of "Society" needs an ability to "Live together". "Living together" means an ability to sacrifice "Freedom for self" for another. Hence "Freedom" in a society is always a compromise.

On the Internet, the issue of Freedom has attracted attention of the community since Internet was born free and is now migrating to a strict regime. When Internet was born, the Cyber Society stood at a distance from the physical society. But as time moved, Internet began interfering with the physical life and the so called e-Governance, e-Commerce etc., made life in physical space dependent on the Internet and vice versa.

Today, politicians and legislators in the physical world cannot ignore the Internet. "Social Media" is as powerful if not more as the print medium in the early days and the TV medium later in shaping the public opinion about which rulers have a stake. Hence there is a natural attempt to regulate the freedom of the Internet.

Internet by its very nature short circuits the communication channel from the mind of a Netizen and the public at large. If I am using a Twitter, the thoughts that fly through my mind can find instant publication across the world without any interference of the editor. This "Freedom of Instant Global Expression" is what



we today recognize as "Internet Freedom" and threatened by some with the use of laws such as the Section 66A of Information Technology Act 2000 as amended in 2008 (ITA 2000/8).

The challenge therefore is to find the ways and means of striking a balance between the "Freedom of Expression" and "Freedom to curb expression". This fight is clearly visible in India at present with Police often acting at the behest of politicians to arrest innocent individuals whose only mistake is to click "I like" button on a face book post or crack a joke on the twitter.

Presently, the dreaded section 66A of ITA 2008 is under the scrutiny of the Supreme Court as to its constitutional validity. If we consider the action of the Police in many of the Section 66A complaints in the last one year as a truthful representation of what Section 66A represents, then there is a strong case for considering the section as "Unconstitutional" and deleting it.

However, many of us feel that the action of the Police under Section 66A in most of these cases was not supported by the law and represented a tendency of the Police to misuse the law at the behest of political pressure. Some of the magistrates went along with the Police because they are also susceptible to such influences or they are down right as ignorant of law as the police constable. The Supreme Court may therefore not consider that there is anything wrong in the law and if there is any threat to the freedom of people on the Internet, it arises from misuse of law rather than the law per se.

If Supreme Court comes to such a decision, there is the danger of some section of the community hailing it as a victory for "Internet Censorship" and the uninformed media may also glorify the event with a slogan "Supreme Court upholds Constitutional Validity of Section 66A". This will be interpreted as a "License to Muzzle the Internet" and there is a danger of the "Internet Freedom" being lost forever.

Responsible Netizens need to guard against such a development and push for legislative safeguards as part of the solution that the Supreme Court may suggest while deciding on the constitutional validity of Section 66A.

It may be noted that the need to retain Section 66A in its original essence to prevent use of E Mails/Messaging for Cyber Stalking, Cyber Bullying and Cyber Harassment as well as cheating by impersonation and Phishing cannot be opposed. The section while attempting to meet these needs has been in-



terpreted wrongly to apply for “Publishing of information on the Net” for which the section is not applicable. Most of the recent disputes under the section have been related to Facebook and Twitter which are actually “Publications” and not “Messaging”. Indian law on internet publishing is more lenient since under Section 67 and 67A it only addresses publishing of “Obscene” content as an offence. Section 67B is more stringent but applies to Child pornography only.

It cannot therefore be said that Indian Cyber Law in the form of ITA 2000/8 has threatened Internet Freedom by legislation. But it is a reality of our society that as the law exists, it will continue to be misused by

Today, politicians and legislators in the physical world cannot ignore the Internet. “Social Media” is as powerful if not more as the print medium in the early days and the TV medium later in shaping the public opinion about which rulers have a stake.

the Police and it will be a long time before everybody realizes the true nature of Section 66A. Further, in a

society where Internet based crimes are a growing menace, the need for strict legal regime to protect the inhabitants from the threats of Cyber Crime, Cyber Terrorism and Cyber Wars cannot be questioned.

In this conflicting context, what we need to do is to build checks and balances for preventing misuse of ITA2000/8. I therefore strongly advocate formation of a “Netizen Protection Commission” in India with judicial powers equivalent to one step below the Supreme Court with benches in each of the States to address issues arising out of misuse or misinterpretation of ITA2000/8. The Commission should be headed by a person of the stature of a sitting Supreme Court judge of honesty and



integrity and consist of representatives from the Public with expertise both in technical and legal fields and representation from different age groups such as the Young, the Middle-aged and the Old, and from different ethnic cultures. The State level commissions can have a similar profile with the Chair person having the stature of a High Court Judge.

Formation of such a “Netizen Protection Commission” may require an additional amendment to the ITA 2008.

As a prelude to the formation of a national level Netizen Protection Commission, interested State Governments may form a state level “State Netizen Protection Advisory Committee” which can advise the State Government of measures to avoid the misuse of law as is happening at present.

As a first step towards this direc-

Presently, the dreaded Section 66A of ITA 2008 is under the scrutiny of the Supreme Court as to its constitutional validity. If we consider the action of the Police in many of the Section 66A complaints in the last one year as a truthful representation of what it represents, then there is a strong case for considering the section as “unconstitutional” and deleting it.

tion, the Netizen Community may itself form an online “Netizen Protection Advisory Center” and develop it as an advocacy center and lobby for better administration for guaranteeing Internet Freedom within the legislative framework of the day in India. There could be many such organizations coordinated with an accreditation like Consumer organizations under the Consumer Rights Commission.

In due course such model can be replicated in other countries and we can expect development of a “UN sponsored Global Netizen Protection Commission”.

Such initiatives are the only hope for sustaining Internet Freedom in an atmosphere where there is enough justification for Internet Censorship too because of the growing Cyber Crime menace.

Views expressed here are personal.

Freedom of Expression - Freedom of Connection

INFORMATION has the power to change our lives. It can increase the quality of human experience, create new environments to realize our dreams and help us to get beyond problems that trouble our world. Considering today's India, this is right time to discuss, advocate and strengthen that the right to access information is a basic human right for every citizen, and the internet is an effective medium to access the information.

Indeed, the internet is considered as one of the most democratic medium and ecosystem where the expression of one's view knows few barriers and borders. On the one hand, internet empowers freedom of expression by provisioning individuals with new means of expressions, on the contrary, the free flow of information has raised the call for content regulation, not least to restrict minor's access to potentially harmful information.

Internet Censorship

Even the use of internet has grown exponentially around the world, however, governments are attempting to regulate, control, and censor the internet in all forms – blogs, mobile communication, social media, etc. Across the globe, governments, private stakeholders and citizens are grappling with thorny issues of freedom of expression, content blocking, censorship and trust.

Of late, India has seen many instances, where citizens have been abandoned by posting opinions on social network websites. In 2012, the Indian authorities blocked number of websites, including some content in the public interest. More prevalent has been administrative censorship



Osama Manzar

Founder & Director at Digital Empowerment Foundation

and requests for removal of content by both government and private actors. Such removals have increased after passage of new regulations governing intermediary responsibilities in April 2011.

The reason behind such draconian action lies in the Information Technology (Amendment) Act of 2008. And on several occasions, individuals have been targeted while questioning against credibility of public figures or political organizations. These regulations and content blocking have intensified public debate between free speech and protection of communities' religious sensibilities amidst a series of civil lawsuits—and at least one criminal case—against social media websites seeking to hold them responsible for content posted by users that some Indians found offensive.

These regulations raise the question of how to define the 'internet' in terms of 'public sphere' and how information can be provided freely and balance the online rights of expres-

sion against the restrictions in a democratic society. In other words, question is which level of content should be protection in communicative sphere of cyberspace.

Digital Divide and Freedom of Expression

In a well-connected world, the poor must finally have a place at the table. If the bottom billions is left out of the communications revolution, however, the world will become even more divided between rich and poor, North and South. That's nothing to shrug about.

Mahatma Gandhi once said that 'the soul of India lives in its villages'; 70 per cent population is living in 638,365 villages, represented by 245,525 Panchayat Offices, mostly located in the remotest regions of the country. However, most of rural regions are not able to access information due to a lack of infrastructure and medium to access information. At the same time, many communities don't have the right to access information. This part of India is still waiting for good service delivery and good governance, as well as medium to access their deserving and rightful services.

In an age of information power, India is home to over 100 million internet users, after the United States and China in 2012. The 'internet usage' in the country continues to increase, with tens of millions of new users getting online each year. With increasing number of mobile penetration in India, the number of Indians is accessing information through mobile devices. According to the Internet and Mobile Association of India (IAMAI), of the 70 million active urban internet users, 26.3mil-

lion had access via their mobile devices in late 2011 .

On the development side, the priority of Government's Five-Year plan is to focus on national target schemes, state-level welfare programmes and all these programmes and initiatives veer towards achieving citizen service goals in a stipulated period. Acts like Right to Information, Right to Education, and draft bills like Right to Food security, 'Electronic Service Delivery Bill' and 'The Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievance Bill' are promoting online delivering of services. The 'Right to Information', included in the National e-Governance Plan (NeGP) calls for the internet to be used so that, "all information covering non-strategic areas [is placed] in the public domain to enable citizens to challenge the data and engage directly in governance reform".

The government is attempting to connect its 638,365 villages with telecom and broadband services through its various dream projects such as National Optic Fibre Network (NOFN) programme and providing telephone is everyone's hand. It is way to connect India that will give opportunity to improvise services in various sectors such as education, health care and agriculture. Subsequently, government is also trying to provide most of the public services, including e-Governance, tele-health services, ration card, public utility bills, etc. But there is a serious lack of scale.

Information Divide And Economy

Illiteracy limits people in developing countries and inner cities, stifles opportunities for innovation and dampens the economic potential of hundreds of millions. Reading and writing are essential skills for economic mobility.

Still 35% of population in India is



The approach towards 'the right to internet is more than enabling access to net or information but it is related to wider aspects of life both for social and economic growth of life. Freedom of internet enables dialogue and direct diplomacy between people and civilization, facilitates exchange of ideas and bolster economic and trade growth.

illiterate, only 15% of Indian students reach high school and 40% population still live below poverty line. One way to look at these issues is that information deficits have aggravated India's backward and underdevelopment as most of the public schemes and programmes are not available locally or in a medium that even illiterates could access. Besides, several recent Acts and laws like RTI, RTE, NREGA et al, have given boost to the possibilities, it is the medium and access that could enable the true empowerment. Digital tool like Internet is certainly one of the mediums and other is mobile telephony as it has immense reach in rural communities of the country.

Discussion related to 'internet as a right', or 'internet freedom', is not limited merely as policy formulation, but internet availability and access has wider implications that under-

line equity, justice to access information, infrastructure availability and more. The approach towards 'the right to internet is more than enabling access to net or information but it is related to wider aspects of life both for social and economic growth of life. Freedom of internet enables dialogue and direct diplomacy between people and civilization, facilitates exchange of ideas and bolster economic and trade growth.

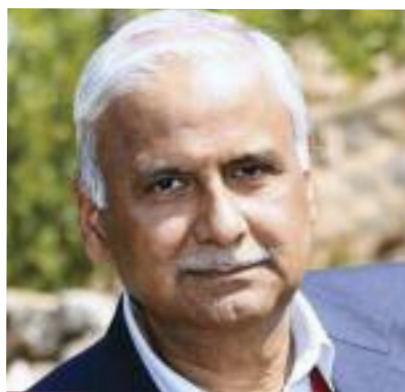
While it is heartening to be the third largest country in the world connected to Internet, but 100-120 million Internet connected India population is merely 10 percent of the country whose youth population is about 40 percent. Since Internet is an open and permanent medium, it is only common sense that it be available to other 90 percent of the people to make the society equitable.

Internet Freedom

BY itself, the expression “Internet Freedom” looks incongruous because, at first glance, Internet seems to be the very embodiment of freedom, almost synonymous with it. But a sobering thought “can I do whatever I want on the Internet”, brings in a dose of reality. The word “internet” is so much in use today that most of us have actually lost sight of what it actually is or was.

Internet is not something that was invented or discovered but it evolved with usage. It was possibly originally thought of as a communications network that should survive and function even during a nuclear conflict. There was a group of people at some research universities in the US that initially formed this network. Subsequently, some Swiss researchers came up with protocols that resulted in the development of what came to be called the World Wide Web, and further developments continued.

The Encyclopedia of Life Support Systems (EOLSS) says “Technologically, the Internet is a global network of smaller networks of computers connected by the information super-highway of telecommunications infrastructures, including fiber-optic networks and coaxial cable grids, in addition to wireless and satellite communications. As such, the Internet integrates millions of computers worldwide, whose users can communicate via electronic mail and the World Wide Web by sending packets of digital information to the destination of their choice. In other words, the Internet is a network of networks, allowing those who are connected to it to send and receive digital data from a virtually infinite number of sources.” It is this capacity to engage in two-way communications with “virtually infinite number of sources” that



Jagdeep S. Chhokar

Former professor, dean, and director-in-charge, IIM-Ahmedabad

makes Internet almost synonymous with freedom.

Freedom is an extremely difficult concept to describe though all of us have the capability to experience it. Encyclopedia Britannica describes it thus: “(I)n humans, the power or capacity to choose among alternatives or to act in certain situations independently of natural, social, or divine restraints.” The operative part here is

“social” restraints. Human beings, as social animals, cannot live without social restraints, so “complete” freedom is a creation of human imagination, an unattainable utopia.

The foremost global enunciation of freedom is The Universal Declaration of Human Rights, adopted by the United Nations on December 10, 1948. The Preamble of this Declaration speaks about the pledge of member nations to “the promotion of universal respect for and observance of human rights and fundamental freedoms.” The very first sentence of Article 1 says, “All human beings are born free and equal in dignity and rights.” The first sentence of Article 2 says, “Everyone is entitled to all the rights and freedoms set forth in this Declaration...” Article 19 is the most relevant for our purpose. It says, “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”



The Human Rights Declaration was elaborated by other covenants. The most relevant in this context is the International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly resolution 2200A (XXI) of 16 December 1966, to come into force from 23 March 1976. Following Article 19 of the Universal Declaration of Human Rights, Article 19(2) of this Covenant describes the “right to freedom of expression” thus: “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

While this freedom sounds absolute and complete, this article is immediately followed by Article 19(3) which says, “The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) For respect of the rights or reputations of others;
- (b) For the protection of national security or of public order (ordre public), or of public health or morals.”

On similar lines, the Constitution of India gives all citizens the Fundamental Right “to freedom of speech and expression”, under Article 19(1)(a). And, on similar lines again, Article 19(2) gives the State the right to impose “reasonable restrictions on the exercise of the (fundamental) right (to freedom of speech and expression) ... in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.”

Thus, we see that there are, or can be, no absolute freedoms but all freedoms are subject to what are called “reasonable” restrictions. But is the Internet different? Can it avoid or escape the so-called “reasonable” restrictions, allowed to be “imposed” by governments or the State?

An answer to such questions is provided by John Perry Barlow, an American poet and essayist, a “cyber-libertarian” political activist, and a Fellow at Harvard University's Berkman Center for Internet and Society since 1998. On February 08, 1996, he “gave” what he called “A Declaration of the Independence of Cyberspace” He did it the day after the Telecommunications Act of 1996 was signed into law in the US. It was the first significant overhaul of United States telecommunications law in more than sixty years. It represented a major change in American telecommunication law, since it was the first time that the Internet was included as a part of a law.

Barlow described cyberspace to consist of “transactions, relationships, and thought itself, arrayed like a standing wave in the web of our communications. Ours is a world that is both everywhere and nowhere, but it is not where bodies live.”

He challenged governments by saying that, “Your legal concepts of property, expression, identity, movement, and context do not apply to us. They are all based on matter, and there is no matter here.” Charging some governments, including the US, of “trying to ward off the virus of liberty by erecting guard posts at the frontiers of Cyberspace”, he said that, “These may keep out the contagion for a small time, but they will not work in a world that will soon be blanketed in bit-bearing media.”

Referring to the “increasingly obsolete information industries”, he stated, “These increasingly hostile and colonial measures place us in the same position as those previous

lovers of freedom and self-determination who had to reject the authorities of distant, uninformed powers. We must declare our virtual selves immune to your sovereignty, even as we continue to consent to your rule over our bodies. We will spread ourselves across the Planet so that no one can arrest our thoughts.”

In conclusion, he promised to “create a civilization of the Mind in Cyberspace,” and wished, “May it be more humane and fair than the world your governments have made before.”

Attempts by various governments to regulate the Internet and their effects have been discussed in an earlier issue of Thinking Aloud but now there is a new threat to Internet Freedom, from the corporate sector. The Times Publishing House Ltd, a part of the Times Group consisting of companies such as Bennett Coleman & Company Limited (BCCL). The publishers of The Times of India, have sent a legal notice to a blogger who wrote a piece on a blogging website, threatening to sue the blogger for defamation. It is worth noting that while the blog was based on an article published in a leading business newspaper, Live Mint, by a well-known journalist, Paranjy Guha Thakurta, and a similar legal notice has been issued to Thakurta, no such notice has been issued to Live Mint. Details of the case can be seen at <http://spicyipindia.blogspot.in/2013/05/the-times-publishing-house-threatens-to.html>.

In summary, while Internet may be synonymous with freedom in theory, there are all kinds of threats to Internet Freedom. Declaration of Independence of Cyberspace may provide visceral satisfaction to emotional types, defending Internet Freedom will continue to be a hard battle against vested interests of various types, and will need to be fought continually.

Views expressed here are personal.

Freedom: From The Point Of View Of The Internet Itself



WHAT was a small research project some 40 years ago, has today become a mainstay of everyday life – and indeed the global economy. The impact of the Internet has been profound and permeates everyday life in all respects – how we live, how we work, and how we play.

The Internet's utility is amazing. From distance learning and connecting students to educators half a world away, to timely medical diagnosis for a patient in a rural community by specialist doctors located in another city (or country), to allowing consumers access to online banking and payment of bills from wherever in the world they may be, to enabling a smaller business to compete with larger ones using business and market intelligence tools by democratising the availability of such tools, to



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allowing one to be in touch with family and friends wherever in the world they may be, the Internet and applications and services that run over it enable all this and much much more.

What is even more amazing is that

anyone, anywhere can create a new Internet application or service and make it available to the world at large, without seeking permission to create it, and without needing vast amounts of capital to make it available. Many of the applications and service providers that are today mainstream started in this very way – Google and Facebook are but two examples.

As more of the world's population come online - and the Internet becomes mainstream to their everyday lives - some quarters are raising concerns about the very power of the Internet and what it enables. More often than not, many such concerns are made to be linked back to some form of criminal activity being perpetrated, and a conclusion is then drawn that the Internet must be controlled or regulated in the interests of security and safety.

However, it should be noted that a crime is a crime – no matter in what domain it occurs. Fraud online or offline is still fraud. Malicious stalking online or offline is still stalking. Child pornography online or offline is still child pornography. Extortion online or offline is still extortion. And all these crimes have a corresponding punishment. New laws are rarely required for such “online crimes” – just an update in terminology can quite often address loopholes in legislation.

However, emotions sometimes do get in the way of common logic and sound judgement. Just because applications, tools or services on the Internet were used to perpetrate a crime, this is then used by some to portray the Internet as being at fault. The Internet does not commit crimes. Humans do.

Placing curbs on Internet Freedom – including filtering and censoring and the like, rarely achieve their goals. Instead, they often end up disenfranchising users and the provision of legitimate services. In other words, such curbs often end up breaking more things than they fix.

Of course, when put to the test, most people will say they believe in Internet Freedom – no matter what quarter they are from. Defining what the “freedom” part of “Internet Freedom” means is where things get fuzzy – freedom can mean different things to different people, and different cultures may interpret this differently again.

It may be worthwhile to then look at the issue from a slightly different perspective:

- what rights does a user have on the Internet with respect to the rights they have in the physical world (e.g. freedom of expression, freedom of association, and so on)
- how the Open Internet, and the way in which it has developed, allows freedoms to be exercised

The Open Internet and user freedoms share many common values, and are inextricably linked.



Article 19 of the Universal Declaration of Human Rights says:

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”

This was adopted in 1948 – some twenty-odd years before the creation of TCP/IP, a technical standard on which the Internet runs. Interestingly enough, the Universal Declaration of Human Rights in many ways reflects the very nature of how the Internet was developed technically, and continues to be developed today.

Internet technical standards are created by the Internet Engineering Task Force (IETF). What is quite unique – and this reflects the modern paradigm for standards making organisations – is that the whole process is open and accessible. This means anyone can participate, and anyone can use the standards. The actual process is also highly open and democratic – there are no membership fees and specific requirements to be able to participate in standards development – anyone can contribute if they have an interest in the subject.

From its very early days to its present, the Internet's (technical) development has been carried out through



a bottom-up process in which individuals (from around the world) come together to solve problems and identify opportunities using a process that respects common agreement and understanding. And the whole design of the Internet itself is completely decentralised – there is no one point of control. The Internet is a global network of networks that transcends national boundaries, and its continued functioning requires collaboration and cooperation between individuals, organisations and entities across the world.

The whole concept of how the Internet Model works (and has successfully worked since inception, and

continues to work today) is testament to its empowering nature. The network of networks exists to connect people and places – any decision on what people connect to is, and should be, made by the people themselves. These decisions are made at the edge of the network – not within the network itself.

The rights – and freedoms – a person has offline (or in the physical world if you like) must also be the rights and freedoms he or she has online. A change in medium must not translate into a change of rights and freedoms.

Needless to say, users also need to be responsible and must exercise

their rights and freedoms within the boundaries of national and international laws and norms. Just like having a driving license does not give one the right to use a motor vehicle to run over pedestrians at will, users online (or offline for that matter) need to exercise responsibility and sound judgement in how they conduct themselves.

Jon Postel, an Internet pioneer who made significant contributions to the development of the Internet wrote as the “Robustness Principle” (also known as Postel's law):

“an implementation should be conservative in its sending behaviour, and liberal in its receiving behaviour”

This was re-written later as “Be conservative in what you send and liberal in what you accept”.

Whilst this was meant to be a general design guideline for software, it also holds very true today as a general ethic for work and social interactions.

Education and awareness is also necessary, and this in itself is a collective responsibility – it's not for any one group to provide education and awareness about online behaviour, every Internet user has to exercise the responsibility to educate and counsel their peers, colleagues and those around them on appropriate behaviour as per social norms and rule of law.

The Internet has arguably been one of the greatest developments of humankind, and its value is all the greater because it is open, accessible and global in nature. This open nature has allowed innovation and creativity to flourish, and provided us with the opportunity to exchange and absorb information like never before.

Curbing the very nature of the Internet and its freedoms is antithetical to its existence - and the principles of human rights that society and nations subscribe to. Employing such action, in whatever form, will certainly mean disenfranchising the generations to come.

Views expressed here are personal.

Internet Freedom In Illiberal India

THE suppression of the freedom of opinion and expression, especially those expressed through the internet remains a misnomer for the largest democratic country. At the root lies India's essential characteristic as a police State where policemen are willing to abuse powers to please the political masters.

The abuse of the Section 66A of Information Technology Act, 2000 to silence criticism of the political leaders has reached such a proportion that on 16 May 2013, a vacation bench of justices B S Chauhan and Dipak Misra of the Supreme Court in the case of Shreya Singhal vs Union of India [Writ Petition (CRL) NO(s) 167 OF 2012] directed all the States and Union Territories to ensure compliance with the advisory issued by the Central Government on 9 January 2013 while affecting arrest under Section 66A of the Information Technology Act, 2000 until further orders of the Court. The direction of the Supreme Court came while hearing an urgent application in the case challenging the arrest of Ms Jaya Vindhyala, human rights activist and President of People's Union for Civil Liberties (PUCL) Unit of Andhra Pradesh under section 66A of the IT Act on 12 May 2013. Ms Vindhyala was arrested and sent to jail over her Facebook post in which certain alleged objectionable comments were made against Tamil Nadu Governor K Rosaiah and Congress MLA Amanchi Krishna Mohan. The application was moved by the petitioner, seeking an urgent hearing stating the police was taking action in such matters even though her PIL challenging the validity of section 66A is pending before the Supreme Court. The PIL



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was filed in November 2012 after two girls were arrested in Thane for their Facebook comment against the shutdown in Mumbai following Shiv Sena leader Bal Thackeray's death.

On 9 January 2013, the Department of Electronics and Technology, Government of India issued the advisory asking the States/UTs that no person should be arrested for posting objectionable comments on social networking sites without taking prior permission from senior police officials. The advisory, issued in the backdrop of protests over arrests and misuse of the IT Act reads "State Governments are advised that as regard to arrest of any person in complaint registered under section 66A of the Information Technology Act 2000, the concerned police officer of a police station under the State's jurisdiction may not arrest any person until he/she has obtained prior approval of such arrest, from an officer, not below the rank of the Inspector General of Police in the metropolitan cities or of an officer not below the

rank of Deputy Commissioner of Police or Superintendent of Police at the district level, as the case may be."

Abuse of Section 66A of Information Technology Act, 2000

In December 2012 Mr Kapil Sibal, Communication and Information Technology Minister, while admitting the misuse of 66A of the Act informed the Rajya Sabha that the misuse is not rampant.

However, the increasing cases suggest otherwise. Some of the cases of abuse of Section 66A included arrest of Manoj Oswal for having caused inconvenience to relatives of Nationalist Congress Party chief Sharad Pawar for allegations made on his website in November 2011; arrest of Jadavpur University Professor Ambikesh Mahapatra in April 2012 for forwarding cartoons on West Bengal Chief Minister Mamata Banerjee by email; arrest of Principal Nandini Mitra of Sharad Pawar International School and her driver Sushant Sukumar Karmokar for allegedly sending defamatory and obscene SMS against the school in May 2012; arrest of two Air India employees, Mayank Sharma and K V Jaganatharao Rao, were arrested for posting alleged "derogatory" remarks while commenting on a strike by Air India pilots in May 2012; arrest of businessman Ravi Srinivasan in Puducherry for an allegedly defamatory tweet against the son of Union Finance Minister P. Chidambaram in October 2012; arrest of Cartoonist Aseem Trivedi in November 2012; arrest of Sanjay Chaudhary on 6 February 2013 for posting 'objectionable comments and caricatures' of political leaders on his



Facebook wall; etc.

In fact, as per the latest Google Transparency Report, Google had received 2,285 government requests to remove 24,179 pieces of content during July to December 2012. This is an increase from the 1,811 requests to remove 18,070 pieces of content that it received during the first half of 2012. India is in the list of top five countries to sent requests to Google to remove content.

Further, between 18 and 20 August 2012, the Ministry of telecommunications asked Internet Service Providers to block 16 Twitter accounts including of senior journalist Kanchan Gupta in the wake of unrest following violence in Assam. As per the Google Transparency Report, during the period of disturbance in the North-East region, five requests were received from the Indian Com-

puter Emergency Response Team to remove content from Google+, a Blogger blog, 64 YouTube videos, and 1759 comments associated with some YouTube videos, that cited laws covering disruption of public order or ethnic offence laws.

Eyes on the Supreme Court as the Centre's advisory remain ineffective

The Supreme Court's interim order is welcome but the question is whether the order will have any impact on the implementing agencies. This is essentially because the Centre's advisory not to arrest any person without the permission of the senior police officer has been ineffective.

The advisory is bound to fail. First, it is a mere advisory and not binding on the states. Second, as most of the above cases show, arrests were made

following alleged offensive remarks/posts on politicians or their relatives. The police remain too willing to please the political masters. Third, the arrests under the controversial provision have not stopped despite Centre's advisory. Fourth, the arrest under the provision can be justified by showing approval of senior police officials. Obtaining approval from senior police officials will not be difficult in particular in cases involving politicians/influential persons

Further, if media report is to be believed, the office of the Director General of Police of Uttar Pradesh Police has recently issued an internal memo categorically stating to deal strictly with complaints of online stalking as per Section 66A of Information Technology Act. As per the memo, sending more than two friend requests on social networking site Facebook to an unknown person has been made a punishable offence in Uttar Pradesh. If found guilty, the accused could be jailed for three years or would have to pay a fine up to Rs. five lakh or both. Mr S C Dubey, Senior Superintendent of Police, Agra has reportedly stated, "Most of the cyber crimes today originate from Facebook. Everyday, we get several complaints from women being harassed through the medium of social media. The new order will help us making internet a safer place."

The memo, if true, will have far reaching negative consequences.

There is no doubt that the government has every right to deal with information which is defamatory, obscene, pornographic, pedophilic, libelous, hateful, or racially and ethnically objectionable, disparaging etc. However, Section 66 of the IT Act has been mainly used in India by the political masters to suppress comments in the social media. The Supreme Court's forthcoming judgement therefore remains critical to bring an end to abuse by the political leaders.

Views expressed here are personal.

Internet Freedom: What It Means?

INTERNET Freedom as a term conjures up simply a situation where one has complete rights to access Internet and freedom to use it, unfettered by any restrictions in terms of monitoring or censorship, promoting freedom of expression and free flow of information and ideas. Different Governments treat it differently with a mixed bag of emotions, borne out of their respective ideologies. Some seek to advance it, some seek to curtail it and some have grave reservations while seemingly doing everything to promote its availability and widespread use.

From the perspective of the free world, Freedom of conscience, freedom of speech, freedom of the press, and freedom of association are fundamental human rights guaranteed by their countries constitutions just like the Indian Constitution does too.

Article 19 of the Universal Declaration of Human Rights declares 'Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.'

Hence for the free people, Internet has been evolving as the wide open gateway to provide, deliver and freely access large amounts of information; as a meeting place to interact freely with others; as a wide open platform from where diverse sets of people known or unknown to each other come together to exchange views, information and ideas without any let or hindrance and interference, all done ostensibly in complete anonymity if one chooses to; as a socio-political platform to influence



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local governments; as a open market place to trade and do business from; and as a technology platform that now powers most of the businesses and economic activity worldwide.

This freedom and power to access, communicate, interact, influence, change and conduct oneself through this all powerful but still evolving communication technology now mostly comes at a price that can be considered affordable by at least those who have it and simultaneously hectic efforts continue in most regions and countries, to make it accessible to the remaining 4.8 billion people at a cost that most will be able to afford.

Therefore, from the Internet user's perspective, last couple of decades has seen Internet emerging as the most disruptive, yet transformative and empowering way of life through creating, sharing, twitting,

tagging, and even exposing, etc.

Users as the Power behind Internet

With the emergence of social media platforms powered by likes of Google, Facebook, Twitter, etc. which command from 100s of million to over 1 billion users or close to half of all Internet users worldwide, the on net population is far more than the physical population of any country. Facebook users constitute the 3rd largest population block of people after China and India, and Facebook, Google, Twitter users put together surpass the population of any nation by a huge margin. One can well imagine the socio-political force that such a population bundled together via instant connectivity, with a few clicks, can generate.

Political transformations have taken place and continue as we speak, such as in the Middle East, (Arab spring, etc.) in 2010-2011, which can be directly attributed to the social and political actions brought forth by online communities and their influence unleashed onto the physical world.

Hence, this is the population that treasures openness of the Net, freedom to use it as they wish and abhor any action by any state or agency or person to curtail its use in any way, whether in the name of securing privacy, in the name of security or even plain old censorship of content and denial of access is an unthinkable act going against the principles of humanity and freedom.

International Covenants & Legislative support

On 29th June, 2012, Human



Rights Council at the UN General Assembly, adopted a Resolution namely “The Protection, Promotion and Enjoyment of Human Rights on the Internet”, which among other things recognized the right to access Internet as a basic human right and also that all rights enjoyed offline must also be protected online, especially with regard to freedom of expression, irrespective of frontiers and any media.

I would think that The UN Resolution is the direct result of the concern that certain countries and their governments restrict the use of Internet for curbing their citizens freedoms. Governments govern people and for them it is their sacrosanct duty and authority to be the guardians of the activities of the people they govern. Any act or activity of the people is sought to be brought within the purview of laws, rules and regulations. This has been the customary and traditional form of polity and jurisprudential practice since the time society came to be organized. Same holds good when it comes to how to govern Internet.

So while, Governments faced initial set of challenges, with regards to understanding the technology, its po-

tential impact and territorial authority over the Internet when it was new - and still grappling with some of these aspects – by now have acquired sufficient skills and knowledge and experience to determine and enforce their own sets of ideological practices over the Internet, depending on which political terrain they represent. The differences are sharp and there are:

a. Governments who pro-actively promote access to internet and steer clear of imposing restrictions on content, censoring, prohibiting or in any sense limiting the use of Internet unless such content is against legitimate public order.

b. There are governments, considered repressive, with no compunction in restricting access, censoring and blocking popular content. Many governments consider Internet as subversive and tend to use it as a tool for suppressing free speech, free expression and often deploy tools to monitor and conduct covert surveillance on their population.

c. Then there are governments, who promote access to Internet on the one hand as a prerequisite to economic growth, but remain vary of social changes stemming from un-

restricted flow of content and information. Local laws are often enacted with legitimate looking clauses and conditions but which indirectly result in curtailment of freedom of expression in some or the other way by way of self censorship, encouraging detention, harassment and torture of citizens by police over dissenting content, etc.

In light of the above context UN resolution reaffirms the human rights and fundamental freedoms enshrined in the Universal Declaration of Human Rights and relevant international human rights treaties, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,

Push for Net Freedom

During the Bush Administration in the US, in 2006, then Secretary of State, Condoleezza Rice established the Global Internet Freedom Task Force (GIFT) to “address challenges around the globe to freedom of expression and free flow of information.” Admittedly for the US, the aim and objectives to promote Internet freedom was primarily directed as a tool of foreign policy and deterring cooperation with regimes considered repressive. GIFT is now Netfreedom Task Force and has led to setting up platforms like Global Network Initiative (GNI) bringing together the world’s largest internet technology players and civil society organizations to develop a collaborative role when selling hardware/software while protecting and maintaining the principles of human rights, freedom of expression, privacy of information in the countries they do business in.

The same year a bill called Global Online Freedom Act was introduced to the US Congress in 2006 and 2007, and is still a work in progress, declares that it is U.S policy:

(1) promote the freedom to seek, receive, and impart information and

ideas through any media; (2) use all appropriate instruments of U.S. influence to support the free flow of information; and (3) deter U.S. businesses from cooperating with Internet-restricting countries in effecting online censorship.

In 2008, the Internet Freedom Preservation Act was introduced stating that:

The global leadership in high technology the United States provides stems directly from historic policies that have ensured that telecommunications networks are open to all lawful uses and to all users. In addition, because of the vital role that broadband networks and the Internet fulfill in exercising our First Amendment rights to speak, it is important that the United States adopt a policy endorsing the open

nature of broadband networks.

Other blocks took a similar approach with The European Parliament passing a Resolution on the EU-China Summit and the EU/China human rights dialogue in 2007, expressing that the European Parliament is

“...concerned about the surveillance and censorship of information on the Internet..”

Controls over Internet Freedom – Evolving Legislation

So on one hand the State guarantees of rights and freedoms, but such enjoyment of freedoms are needed to be counterbalanced by reasonable laws that impose necessary limitations, such as those related to maintaining public order, security and safety of citizens, especially such as

those concerning Child safety, hate speech, etc.

Debates continue and there are no uniform global standards on acceptable level of limits to be imposed on the freedoms. These can vary from country to country and region to region; what may be acceptable as free speech in one country may not be acceptable or tolerable in another country, due to different social norms prevalent. Issues of such public policies continue to occupy the mind-share of policy makers and advocacy groups.

In consideration of such public order and national security issues, Electronic Communications Privacy Act (ECPA) of 1986 has been a US federal statute that specifies standards for government monitoring of cell phone conversations and Inter-

THINKING ALOUD reflects emerging trends and varied outlook of the rapidly evolving internet and communication sector. Brought out by the Internet and Mobile Association of India (IAMAI), it serves as a composite platform that caters to people who are yet to experiment with the medium and are on the look-out for information and latest developments.

The rates for advertisements on the magazine

Ad position	Rate (in Rs)
Back Cover	1,50,000
Inside Cover	1,25,000
Inside Back Cover	1,20,000
Full Page	90,000
Half Page	60,000

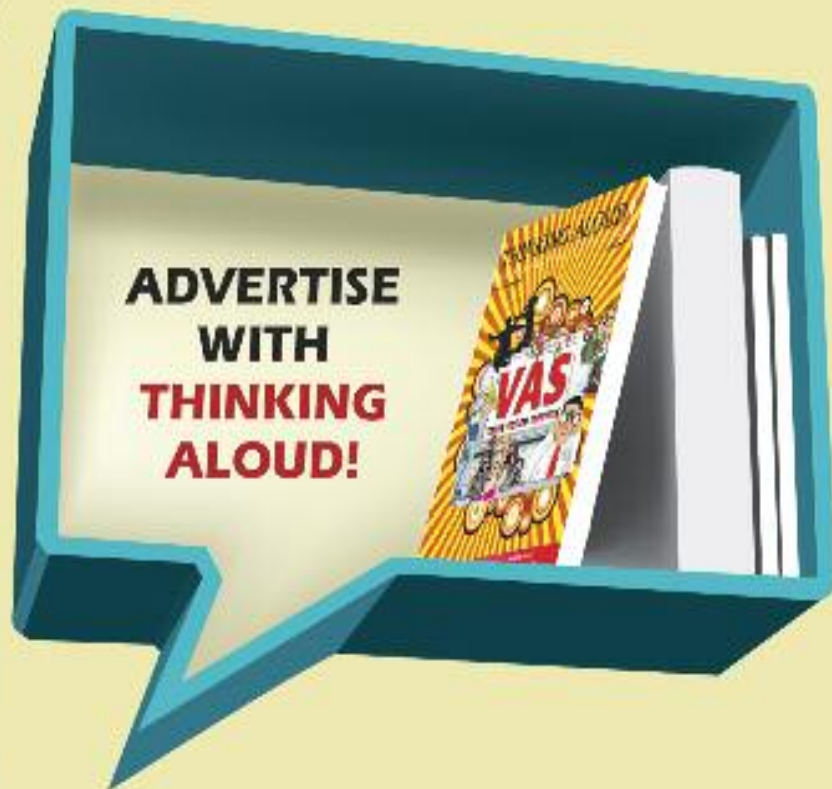
The rates for advertisements in the online interface

Banner dimensions for home page

Placement	Width	Height	Rate/month
Top Banner	510px	80px	75,000
RHS Top	265px	230px	50,000
Bottom Right	265px	145px	35,000

For consecutive pages

Top Banner	510px	80px	50,000
RHS Top	265px	230px	35,000



net communications.

Congress passed the PATRIOT Act just a few weeks after the 9/11 attacks. The law expanded the government's authority to conduct surveillance in the United States and to access records about individuals, including citizens.

In 1994, US adopted the Communications Assistance for Law Enforcement Act ("CALEA"). CALEA a law that provides for wiretapping capabilities on telephone networks for government access. According to Center for Democracy and Technology (CDT), FBI has used CALEA to turn wireless phones into tracking devices, requiring phone companies to collect specific signaling information for the convenience of the government, and allowing interception of packet communications without privacy protections and expanded CALEA to broadband Internet access and VOIP services.

The Courts too routinely order takedowns of websites, on the request of Law Enforcement Agencies (LEAs) on grounds of various illegalities.

Quite interestingly, the Stop Online Piracy Act (SOPA) was introduced in 2012, to expand the ability of U.S. law enforcement to combat online copyright infringement and online trafficking in counterfeit goods.

Opponents stated that the proposed legislation threatens free speech and innovation, and enables law enforcement to block access to entire internet domains due to infringing content posted on a single blog or webpage. The Bill failed to pass the House muster though, after vociferous protests from within US and from outside.

A very similar situation has been faced by ISPs in India, when served with notices to block specific content/sites by the Government, ended up blocking entire domains, which raised a public furor and invited global criticism against India's Net policies.

Section 69 of India's Information Technology Act 2000 and as amended in 2008, provides that where the Government is satisfied that it is necessary in the interest of:

the sovereignty or integrity of India, defense of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above or for investigation of any offence;

it may by order, direct any agency



of the appropriate Government to intercept, monitor or decrypt or cause to be intercepted or monitored or decrypted any information generated, transmitted, received or stored in any computer resource.

This section, therefore, empowers the Government to intercept, monitor or decrypt any information including information of personal nature in any computer resource.

Hence in India as well, Law enforcement officials regularly seek information from Internet companies about the communications of their users, from emails to social posts and chats.

There is another provision contained in Section 66A of the IT Act, as amended in 2008, which penalizes 'sending false and offensive messages through communication services'. The section reads as under – Any person who sends, by means of a computer resource or a communication

device,—

a) any information that is grossly offensive or has menacing character; or

b) any information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will, persistently by making use of such computer resource or a communication device,

c) any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages.

Punishment prescribed is imprisonment for a term which may extend to three years and with fine.

The interpretation of the section has been so wide and skewed that resulted in excesses such as policemen hauling up a 19-year-old boy and questioning him over an alleged Facebook post against Maharashtra Navnirman Sena chief Raj Thackeray. This also comes amidst the row over the arrest of two girls in the same place Palghar over a Facebook post on late Shiv Sena founder Bal Thackeray.

A Delhi student finally filed a public interest litigation (PIL) in the Supreme Court challenging Section 66(A) resulting in modified guidelines issued by the government on how to implement the clause, which now states that:

..”the concerned police officer or police station may not register any complaints (under Section 66 (A)) unless he has obtained prior approval at the level of an officer not below the DCP rank in urban and rural areas and IG level in metros..”

The government, however, continues to defend the controversial law, maintaining that this does not curb freedom of expression. It is now for the Supreme Court to decide on the constitutional validity of this law. Suffice to say that the tussle between exercising freedom and the state's discomfort with its citizen's net activities continue.

In a similar vein, in the UK, Draft Communications Data Bill has been proposed this year, by Home Secretary Theresa May which would require ISPs and Mobile phone companies to maintain records (but not the content) of each user's internet browsing activity (including social media), email correspondence, voice calls, internet gaming, and mobile phone messaging services and store the records for 12 months.

In India, the License for Internet Services, since 1998, has had provisions, obligating ISPs to provide tracing facilities of calls and communications to scores of Government agencies, and to provide access to the network to the security agencies. Further, the License provides that each ISP must maintain a log of all users connected and the service they are using (mail, telnet, http etc.). The ISPs must also log every outward login or telnet through their computers. These logs, as well as copies of all the packets originating from the Customer Premises Equipment (CPE) of the ISP, must be available in REAL TIME to Telecom Authority. Type of logins, where the identity of the logged-in user is not known, should not be permitted.

The same license engenders upon the Service Provider to maintain confidentiality and privacy of the customer information, there are no specific privacy law yet here, which would impose counter impose obligations on government agencies to prevent misuse of the user data they have access to. Section 72A to some extent provides a deterrent measure against unauthorized disclosure of personal data and that's it till now.

India is probably therefore among a handful of countries which actively seeks to promote internet access, but at the same time remains uncomfortable and sensitive to various sorts of content and hence ordering blocking of sites is a common practice.

To derive cold comfort, even in the US, in April this year, much to the



consternation of Internet freedom advocates and inviting condemnation from them, House of Reps passed Cyber Information Sharing and Protection Act (CISPA), which allows Internet companies to share their users personal data with government agencies, thus diluting existing US privacy laws.

Net Neutrality is Net Freedom too

Another important dimension to the Internet Freedom issue, to my mind is the issue of Net Neutrality. While we have seen how some large internet technology companies have been coming under the Global Network Initiative, to protect and promote human rights of free expression and speech through free flow of information, some of these very entities have been at the center of what is called the Net Neutrality issue.

Net neutrality relates to the practice where competing access service and content providers can block and/or restrict the flow of a rival company's content, thus limiting and curtailing the Internet users ability to access information freely. This is against the very basic princi-

ple of net freedom.

In order to prevent this practice from catching up and to encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, the Federal Communications Commission espoused the 4 principles of Net neutrality in 2005 as under:

- Consumers are entitled to access the lawful Internet content of their choice.
- Consumers are entitled to run applications and use services of their choice, subject to the needs of law enforcement.
- Consumers are entitled to connect their choice of legal devices that do not harm the network.¹³
- Consumers are entitled to competition among network providers, application and service providers, and content providers.

In 2009 – 2 new principles were added for formal rule making:

- Prevent Internet access providers from discriminating against particular Internet content or applications, while allowing for reasonable network management.
- Ensure that Internet access providers are transparent about the network management practices they

implement.

In response to the above FCC Rules, U.S. Senator John McCain introduced the Internet Freedom Act, which probably aimed to keep the FCC from enacting rules prohibiting broadband providers from selectively blocking or slowing Internet content and applications. Net neutrality rules would create "onerous federal regulation," McCain stated.

It was ironic that the proposed bill be called Internet Freedom Act, whereas it was anything but.

In India, there are still no formal policy proposals, rules or guidelines with regard to net neutrality issues, possibly because internet and data traffic is still in an early evolutionary stage here and competition for content is not so severe. That it'll become an issue sooner than later is a moot point, considering that a few large Telco ISPs have begun to feel and make it known that they deserve to be paid a share of revenues generated by the likes of Google, Yahoo, etc.

Having said this, Prioritizing traffic for particular content is not really unknown here. This despite general recommendation/guidelines from the Regulator as well as the License conditions that service providers shall not discriminate in provision of services to their customers.

Regulatory intervention may be required therefore sooner than later, so that service providers can be curtailed right away from restricting free flow of traffic, discriminating between content and information and prioritizing content flow based on commercial considerations alone.

Internet Governance

While there are more dimensions, such as Digital Rights Management, Digital Privacy, Open Internet Standards, and much more, due to want of space and time, I'll briefly touch upon the last but not the least important issue - the tussle on who does and will control the Internet.

Many governments around the

globe have been seeking to establish authority over the Internet and propose wresting control from what they see as hegemony of the US Government over the network. Most of the countries favoring International Telecommunications Union (ITU) type of model for governing Internet coincidentally also seem to be the same ones, who have shown themselves as historically uncomfortable with the social and political dissent amplified with the deep disruptive nature of the internet. So, Freedom of internet is not a concept that these regimes are comfortable with. Irrespective of being repressive or not, but still, lot many more countries have started to look forward to controlling and monitoring information flow within their jurisdictional areas, for legitimate public policy reasons or otherwise such as a natural desire to shape the Internet to their own socio-economic-political requirements.

Debate keeps growing and the future of governance model for Internet continues to be the hot potato that it is.

Complicity of Corporations against Net Freedom

Whatever, but the dichotomy here is that many of the well known internet corporations supplying hardware, software solutions and helping run local networks have allegedly co-operated/colluded with repressive regimes, agreeing to share consumer information – ostensibly to comply with local laws – but more to advance the benefits of their business and that is definitely not in consonance or in line with the principles of International efforts to promote human rights.

To address these issues, Global Online Freedom Act, which has been in the offing since 2006, has recently passed by a House sub-committee, in its 2013 avatar, the purpose of which is:

1) To prevent United States

businesses from cooperating with repressive governments in transforming the Internet into a tool of censorship and surveillance,

2) To fulfill the responsibility of the United States Government to promote freedom of expression on the Internet,

3) To restore public confidence in the integrity of United States businesses, and for other purposes.

Whether the Bill eventually passes or gets rejected like before, the point is that legislative efforts continue to promote practices in line with the principles of human rights and not against them.

Conclusion

Extent of access to Internet is now arguably a big measure of the degree to which Universal Rights and Freedoms are enjoyed by people around the world. So, while internet freedom advocates believe that it means freedom from restrictions, blocking, controls, monitoring, surveillance, etc., and they are right of course, we also have to understand that all progressive Constitutions also enjoin upon the citizens that such rights cannot be altogether absolute, but have to co-exist with corresponding legitimate impositions of limitations. As we have seen governments are at work; on one hand promoting Internet and on the other bringing in legislative and regulatory measures which are debated widely through a multi stakeholder approach, and as long as this process continues, where governments zeal to try to lean and overstep into lives of netizens is counterbalanced by civil society helping to maintain appropriate levels of probity and transparency, we should do fine in finding the right balance between freedom and responsibility.

Views expressed here are personal and most factual information is courtesy websites such as www.cdt.org, www.internetfreedom.org, www.state.gov.us, www.eff.org, www.netfreedom.org, www.govtrac.us, etc.

Internet Freedom – To Unite And **Not To Divide**

INTERNET inherently generates knowledge and value from end users, rather than centralized gatekeepers. Thus freedom of use and access is to some extent inherent in the design of the Internet. Framework that is governing the Internet has been developed in such a way to enhance competition, innovation, free expression and trust, with minimal government intervention. Therefore Internet acts as a reservoir of knowledge that could be created by allowing free access to the masses regardless of geographical boundaries. Fundamentally Internet freedom can be implied as freedom to access and publish information. There is no freedom without freedom of information and there is no freedom of information without freedom of internet

Indeed, a free, widely accessible Internet stands at the heart of both global communication and global commerce. Internet freedom enables dialogue and direct diplomacy between people and civilizations, facilitating the exchange of ideas and culture while fostering trade and economic growth. Conversely, censorship and other blockages stifle both expression and innovation.

However amidst the unprecedented surge in connectivity, we must also recognize that these technologies are not an unmitigated blessing. These tools are also being exploited to undermine human progress and political rights. Just as steel can be used to build hospitals or machine guns, or nuclear power can either energize a city or destroy it, modern information networks and the technologies they support can be harnessed for good or for ill. All nations recognize that free expression



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has its limits. We do not tolerate those who incite others to violence or by hate speech that targets individuals on the basis of their race, religion, ethnicity, gender, or sexual

orientation is reprehensible. Or those who use the Internet to recruit terrorists or distribute stolen intellectual property. But these challenges must not become an excuse for governments to systematically violate the rights and privacy of those who use the internet for peaceful political purposes. As Internet stands for connection and not division

Global Context

Globally consensus on what Internet Freedom will constitute is still a distant dream. One side we have countries like US who have openly linked Internet Freedom with Human Rights like Universal Declaration on Human Rights, which tells us that all people have the right “to seek, receive and impart information and ideas through any media and regardless of frontiers.” And on the





other side we have repressive regimes which adversely control all forms of media as part of their political censorship and propaganda system. Nations that tend to suppress information are the ones that have a lot to hide. There are usually severe social problems in these societies such as serious unemployment and unrest, systemic and widespread corruption, and no rule of law. The leadership tends to believe that anything that goes wrong threatens their legitimacy, so they desperately want everyone to think things are stable and perfect in the society.

Repressive regimes will not only block information but will take information control to another level and information becomes a tool for manipulation and indoctrination. Perhaps the most insidious example of this is the use of propaganda in Mainland China to whip up anti-US sentiment via television, radio, print media, and the Internet. The Chinese Communist Party (CCP) not only blocks websites on the global Internet, the net the rest of the world uses, but actively feeds false information to the populace through its own internal Internet search engine, baidu, and censored version of Google.

Numerous online surveys on the Internet now suggest that the majority of Chinese users consider the United States their main potential enemy and the key obstacle to China's rise. The result became ap-

parently clear on September 11, when tragedy struck on US soil and thousands of civilian lives were lost: 80% of the Mainland Chinese surveyed on the Internet said they believed the US deserved the attack and many took to the streets cheering. On February 2, 2003, Voice of America (VOA) reported that Chinese youths were rejoicing over the Columbia space shuttle disaster in which several American astronauts were killed, calling it the most beautiful fireworks of the New Year.

China is by far the biggest offender when it comes to Internet censorship -- the apparatus of Internet repression is considered more extensive and more advanced than in any other country in the world. In fact China has the largest recorded number of imprisoned journalists and cyber-dissidents in the world. While Iran has the largest number of Internet users in the Middle East, but it is also known to have the most sophisticated state-mandated Internet filtering systems in the region. Individuals who subscribe to Internet service providers (ISPs) must promise in writing not to access "non-Islamic" sites. The law requires ISPs to install filtering mechanisms that cover access to both Web sites and e-mail. Punishment for violations of content-related laws can be harsh. North Korea is another example where the government has tried to completely isolate its citizens from outside opinions. On the same lines

Saudi Government is found to be blocking many web pages about Hinduism, Judaism, Christianity, and even Islam for that matter.

India Context

Both federal and state governments selectively practice Internet censorship in India. While there is no sustained government policy or strategy to block access to Internet content on a large scale, measures for removing content that is obscene or otherwise objectionable, or that endangers public order or national security have become more common in recent years. For instance, India demanded Research In Motion (RIM), creator of the BlackBerry, provide the government access to encrypted information sent over its devices. India is also seeking greater access to encrypted data sent over other services like Skype and Gmail, as well as virtual private networks. Indian government, considers that pursuing national security through such endeavors is both legitimate and necessary.

Way Forward

Free flow of information is key to advancing freedom, human rights, and social justice around the world and the Internet is perhaps now the most powerful information tool available. Dissident groups, human rights defenders, journalists, intellectuals, students, persecuted religious groups, lawyers, and businessmen all see the potential of the Internet to build communication and foster peaceful and positive social change. Internet today is a world not defined by boundaries and should remain as such only. A medium which is open but secure that is accessible and empowering to all. If any governance model has to be established it should be done based on a global consensus. Let us go forward together to champion these freedoms for our time, for our young people who deserve every opportunity we can give them.

Views expressed here are personal.