

ANATOMY OF VIRTUAL CURFEWS:

HUMAN RIGHTS VS. NATIONAL SECURITY

The paper focuses on highlighting existing and emerging threats to infringement of fundamental and human rights on account of arbitrary, unnecessary and disproportionate usage of Internet and network shutdowns in India by the State

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GLOSSARY

CrPC:	Code of Criminal Procedure
DOT:	Department of Telecommunication
ISP:	Internet Service Providers
IAMAI:	Internet and Mobile Association of India
IT Act:	Information Technology Act, 2000
ICCPR:	International Covenant on Civil and Political Rights
ITU:	International Telecommunication Union
TSP:	Telecom Service Providers
UDHR:	Universal Declaration of Human Rights
UNHRC:	United Nations Human Rights Council

INTRODUCTION

The balance between state powers and rights of citizens is a symbol of democracy. With the advent of the Internet, exercising free speech, expression, association and assembly have become much easier. It has not only made communication technology affordable but has also given a platform for self-expression, which was otherwise not available through traditional media. However, most countries build contingencies into their national law that allow for governments to take control of communication networks, and block or intercept them under the guise of national emergency or to protect national security. However situations in which a government can exercise this power are often not indicated clearly¹.

Over the past few years, 'virtual curfews' or 'network shutdowns' have increased in South Asian countries like India, Pakistan, Bangladesh and Maldives. For example, India saw 23 such shutdowns in 2016 alone². The Bangladesh government had shut down the Internet for about 90 minutes in November 2015³ while Pakistan had suspended mobile phone services in more than 80 cities⁴ for 16 hours as a security measure.

Telecom service providers (TSPs) or Internet service providers (ISPs) often bear the responsibility of executing government orders to shutdown communications – whether mobile networks in particular cities/regions or Internet access in general or even a particular messaging application that runs on the Internet.

The mechanism adopted for shutting down networks (Internet and or mobile) is often unclear and execution is technically complex. Moreover, it is challenging for telecom operators to discuss in public the implementation due to the addition of a national security element in the process. Besides, the licensing process of TSPs are bound by a clause to take all steps and provide all facilities, when asked, to enable the government to carry out interception of communications.

1 See the Article 35 of the International Telecommunication Union (ITU) Constitution http://www.itu.int/dms_pub/itu-s/oth/02/09/S02090000115201PDFE.PDF

2 News Article, Data : 46 Internet Shutdowns in India in 12 States This Year; <https://www.nextbigwhat.com/Internet-shutdowns-india-2016-297/>

3 News Article, "Internet access restored in Bangladesh after brief shutdown at BDNews" <http://bdnews24.com/bangladesh/2015/11/18/Internet-access-restored-in-bangladesh-after-brief-shutdown>; Accessed on June 25th 2016

4 News article, "Mobile Phone Services Suspended In More Than 80 Cities" <https://www.geo.tv/latest/66272-mobile-phone-services-suspended-in-more-than-80-cities>; Accessed on June 25, 2016

India has one of the largest and fastest growing populations of Internet users in the world. The Internet in India 2015 report by the Internet and Mobile Association of India (IAMAI) indicated that Internet users in India reached 462 million in July 2016 and 371 million access the Internet through mobile phones. Mobile phones are the primary mode of accessing the Internet in India and also the first computing device for some. Seventy-one per cent of the 371 million estimated mobile Internet users in India belong to urban areas, while rural regions also hold an enormous potential to drive the future growth of mobile Internet in India. Despite the dependency on the Internet, there have been incidents where the Government of India has shutdown mobile networks and the Internet.

Despite the fact that the Internet plays a role of catalyst for economic activity, there have been several network shutdowns by public authorities in recent times. Restricting connectivity or shutting down the network has the potential to reverse the impacts that the Internet ecosystem has on the wider economy. These disruptions not only directly infringe people's fundamental right to receive and impart information or the right to express themselves but it also prevents them from associating and assembling with like-minded individuals or groups online and offline. Besides the economic impact, these disruptions affect access to emergency services and makes common users unable to contact their family and friends.

The practice of blocking the Internet and mobile services also contradicts the UN's new Sustainable Development Goal 9 – "Increase access to information and communications technology and strive to provide universal and affordable access to the Internet in least developed countries by 2020"⁵. These disruptions directly infringe on people's fundamental right to receive and impart information, prevent them from contacting their loved ones during emergencies, and have an adverse impact on the economy. This reflects an early warning sign of other human rights violations, such as state violence.

5
Transforming our world: the 2030 Agenda for Sustainable Development. Accessed on 23/02/2016. See more at: <https://sustainabledevelopment.un.org/post2015/transformingourworld>

ABOUT

This issue paper focuses on highlighting existing and emerging threats to infringement of fundamental and human rights on account of arbitrary, unnecessary and disproportionate usage of Internet and network shutdowns in India by the State. The issue paper explores how virtual curfews impact the right to access information, right to access emergency services, right to freedom of expression (FoE), and right to freedom of association and assembly (FoAA) online. The issue paper is an effort to analyse reasons behind network disruptions across the country. It also looks into international and national frameworks that give power to the State for shutting down Internet and mobile Internet services. Finally, the paper presents recommendations for all stakeholders, including the government and telecom operators, to maintain wider aspects of human rights without disrupting or jeopardising national security.

Research Objective & Methodology

The objective of this issue paper is to improve the understanding of citizens and authorities around the issue of disrupting Internet or mobile Internet services; and to explore its interaction with fundamental human rights.

To achieve the objective of this issue paper, we have adopted the following methodology:

- Mapping of existing policies to understand the trends and reasons for shutting down Internet and mobile Internet services
- Analysis of existing network shutdown cases and their reasoning as presented in media reports
- Identification of a few case studies of Internet and mobile Internet services disruption that have had an impact on the rights of citizens

The limitation of this paper is that it is solely dependent on media reports and existing research. However, it is the first step in a larger research agenda to explore the social and economic impacts of network shutdowns.

1. DEFINING VIRTUAL CURFEWS

Virtual curfews or network disconnections/Internet shutdowns happen when telecommunications infrastructure, including mobile or Internet networks or both, are shut off or disrupted deliberately. During the time of network disconnection, phone calls or text messaging services or Internet-enabled services (such as WhatsApp, Facebook, etc.) are disrupted. The networks may be disrupted both technically and legally. Unintended shutdowns are caused by technical disruptions due to natural disasters or technical failures (of existing infrastructure). An intentional disruption is when Internet or electronic communications are rendered inaccessible or effectively unusable for a specific population or region, often to exert control over the flow of information. Purposeful disconnections take place on government orders during the time of an emergency or on the grounds of “national security”.

The definition also includes a wide range of activities that extend beyond a blanket disruption of entire Internet services, but also includes restrictions placed on using the Internet and other electronic services such as throttling, and blocking of websites and services, or other telephonic, or broadcast means of communication, usually at strategic times of political activities.

Though the primary responsibility of the State is to provide safety and security to its citizens; it often takes broader obligations to protect the whole spectrum of human rights by suspending networks or disconnecting Internet services. These suspensions adversely affect freedom of expression, freedom of association and assembly, and a range of social and economic rights. As more and more people connect to and rely on mobile and Internet services, it becomes an indispensable cornerstone of the economy, thus, state-sponsored network shutdowns increasingly disrupt, even endanger, the right to life, which the government is obligated to protect.

2. VIRTUAL CURFEW: THE INTERNATIONAL & NATIONAL FRAMEWORK

2.1 International Human Rights Framework

The right to access to the Internet is not just an independent right but it is also an enabler to exercise other fundamental and human rights such as freedom of expression, freedom to assemble and associate, right to livelihood, right to religion and right to information, among others. Hence, the right to development has been laid down in international UN standards; and are widely acknowledged in many domestic legal frameworks across the globe.

Under international laws, the universal right to freedom of expression is well defined and clarified in a number of legally binding instruments, declarations and principles:

Universal Declaration of Human Rights (UDHR), 1948⁶:

Article 19:

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

International Covenant on Civil and Political Rights (ICCPR), 1966:

Article 19:

1. *Everyone has the right to hold opinions without interference.*
2. *Everyone shall have the right to freedom of expression; this right shall include the 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.”*

Under international laws, each country may have its own reservations on freedom of expression, depending on the country's social and religious norms. Article 19 (3) of the ICCPR states,

“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 as are provided by law and are necessary:

- a. *for respect of the rights or reputations of others;*

6 The Universal Declaration of Human Rights; <http://www.un.org/en/universal-declaration-human-rights/>

- b. for the protection of national security or of public order (ordre public), or of public health or morals."***

In 2009, the United Nations Human Rights Council (UNHRC) adopted a resolution that highlighted the importance of the Internet for human rights⁷ for the first time. One of the key documents that established a link between protection and promotion of economic, social and cultural rights as well as civil and political rights on the Internet was adopted in 2012 by the UNHRC⁸.

The UNHRC in 2012 and 2014⁹ had passed resolutions to protect human rights online. On July 1, 2016, UNHRC passed the HRC32¹⁰ Resolution, reaffirming the right to freedom of expression online and condemning any government action to block or disrupt Internet access. The resolution marks a significant improvement as it specifically comments on the hitherto unaddressed issue of Internet shutdowns.

2.2 The International Telecommunications Union (ITU)

The constitution of the International Telecommunication Union (ITU), a specialised agency of UN, protects the free flow of information and the right to communicate¹¹; and allows for network shutdowns in certain situations, albeit with unclear definitions:

Article 34/181:

"Member States also reserve the right to cut off, in accordance with their national law, any other private telecommunications which may appear dangerous to the security of the State or contrary to its laws, to public order or to decency."

The ambiguity of terms such as "public order" and "decency" make it difficult to ascertain the specific situations in which shutdowns are justified.

7 United Nations General Assembly, Human Rights Council. (2009). (A/HRC/12/16). Freedom of opinion and expression. documents-dds-ny.un.org/doc/RESOLUTION/GEN/G09/166/89/PDF/G0916689.pdf?OpenElement

8 United Nations General Assembly, Human Rights Council. (16 July 2012). The promotion, protection and enjoyment of human rights on the Internet. (A/HRC/20/8). ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/20/8

9 United Nations General Assembly, Human Rights Council (20 June 2014). The promotion, protection and enjoyment of human rights on the Internet http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/26/L.24

10 United Nations General Assembly, Human Rights Council (27 June 2016). Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development (A/HRC/32/L.29) <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G16/132/22/PDF/G1613222.pdf?OpenElement>

11 See for example, Article 33 of the Constitution, The Right of the Public to Use the International Telecommunications Service http://www.itu.int/dms_pub/itu-s/oth/02/09/S02090000115201PDFE.PDF

While the Article 35 on the Suspension of Services states

“...Each Member State reserves the right to suspend the international telecommunication service, either generally or only for certain relations and/or for certain kinds of correspondence, outgoing, incoming or in transit, provided that it immediately notifies such action to each of the other Member States through the Secretary-General..”

2.3 National Legal and Regulatory Framework

Article 19 (1) of the Constitution of India¹² guarantees freedom of expression, freedom of association and assembly. At the same time, Article 19 (2) restricts freedom of expression, freedom of association and freedom of assemble in the name of security of the state, friendly relations with foreign states, public order decency or morality, contempt of court defamation, incitement to offence, sovereignty and integrity of India.

Section 5(1) of the Indian Telegraph Act states that the State has the power to temporarily take possession of the ‘telegraph’ established and maintained or worked on by any person authorised under the Telegraph Act, if there is a public emergency or in the interest of public safety, the state believes it is necessary. The Section 5(2) of the Indian Telegraph Act gives the power to detain or even intercept messages. It specifically states,

“On the occurrence of any public emergency, or in the interest of the public safety, the Central Government or a State Government ... may, if satisfied that it is necessary or expedient so to do in the interests of ... public order or for preventing incitement to the commission of an offence, for reasons to be recorded in writing, by order, direct that any message ... shall not be transmitted, or shall be intercepted or detained ...”

Section 144 of the Code of Criminal Procedure (CrPC) 1973, empowers the state government machinery to impose a temporary ban on connectivity. The provision of shutting down the Internet completely has become an issue of concern as it violates the freedom of speech guaranteed under Article 19(1) (a)¹³ of the Constitution of India. The basis on which Section 144 can be invoked are: a) Sufficient ground, b) Requirement for immediate prevention and, c) Speed remedy to prevent a likely obstruction, annoyance or injury to any person or danger to human life or safety, or a disturbance of the public tranquillity, or a riot, or an affray¹⁴.

The Department of Telecommunication (DOT)¹⁵ licenses telecom service providers (TSPs) under its Unified Access Service License Agreement (a ‘UAS License’) or Unified License Agreement (a ‘UL License’) and Internet service providers under its Internet Service Provider License Agreement (an ‘ISP License’). Under these terms

12 Article 19(1) in The Constitution Of India 1949; <https://indiankanoon.org/doc/1142233/>

13 Article 19(2) in The Constitution Of India 1949; <https://indiankanoon.org/doc/493243/>

14 Freedom of assembly and association online in India: Trends, Challenges and recommendations, DEF,2016. Upcoming

15 Department of Telecommunication (DOT); <http://www.dot.gov.in/access-services/list-access-service-licences-issued>

of licenses, the government may, in public interest, issue directions entitling it to take over the service, equipment and networks of the licensee in the event of a national emergency, war, low-intensity conflict, or any other eventuality. Additionally, under the license terms, the government can issue appropriate notification that may debar usage of mobile terminals and require the licensee to deny services, as may be prescribed, in certain areas of the country. The licensee must deny service in the specified areas, within six hours of receipt of the request.

The government can specify the circumstances and submit shutdown requests to TSPs, however, there is no requirement that an independent body be constituted to approve or reject shutdown requests.

Sub-Section (1) of the Section 69A in the Information Technology Act, 2000¹⁶, covers blocks to Internet access, and since it is a special law dealing with the Internet, it prevails over the general Code of Criminal Procedure. Under this sub-section, the central government or any of its officers authorised by it has the power to direct TSPs and ISPs to block public access to any information, generated, transmitted, received or stored in any computer resource. The officer giving the direction may only do so, if he or she believes it is necessary, and that it falls under the purview of the reasonable restriction on FoE, FoAA as laid out in Article 19(2) and 19(3) of the constitution.

Sub-Section (1) of the Section 69A does not specify which TSPs can discuss request or claim compensation for loss of revenue occurred in claims of national security. Both the acts are also concerned with regulating the provision and availability of network, but does not provide any alternative during the time of disruption. This also reflects that there is no 'non-natural disaster response' legislation that explicitly defines the extent to which state actors can interfere with the provision of public services to control unrest.

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16 Sub-Section (1) of the Section 69A; http://www.dot.gov.in/sites/default/files/itbill2000_0.pdf

3. VIRTUAL CURFEW CASES: RESTRICTING FREEDOM OF EXPRESSION AND FREEDOM OF ASSOCIATION & ASSEMBLY

The number of Internet or mobile or application (such as WhatsApp) blackouts in India has been on a rise over the last few years. There have been over 40 network disconnections since 2013. These network shutdowns have affected free speech, freedom of association and freedom of assembly and access to information, among other impacts. In practical terms, suspensions of the Internet, especially in situations of riot or violence, becomes problematic for citizens to access health services and emergency services or even carry out local trade and eCommerce.

In 2015, there were 14 network shutdown incidents while there were four and three network shutdown incidents in 2013 and 2014, respectively. Meanwhile, January to October 2016 saw 23 incidents of network shutdowns in India.

More than 18 such cases of shutdowns occurred in Jammu & Kashmir citing reasons of terrorist attack, social unrest and intention to curb social media rumours. Srinagar witnessed continuous mobile and Internet services shutdown for more than 100 days following the killing of militant Burhan Wani by security forces. Restrictions on mobile Internet were placed in districts of Pulwama and in the towns of Anantnag, Shopian, Pulgam and Sopore. Mobile Internet services were cut off in Jammu and neighbouring districts following violent protests in the region over a temple desecration in June 2016.

Internet services were suspended in five districts of Kashmir in April 2016 for indefinite period due to protests over the death of four people in clashes with the security forces¹⁷. In September 2015, Jammu & Kashmir had suspended Internet services for two days following apprehensions of violence in the state in light of a ban on beef in the state.

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¹⁷ News Report, "Kashmir unrest enters 100th day, mobile Internet remains suspended"; <http://indianexpress.com/article/india/india-news-india/kashmir-unrest-enters-100th-day-mobile-Internet-remains-suspended-3085614/>

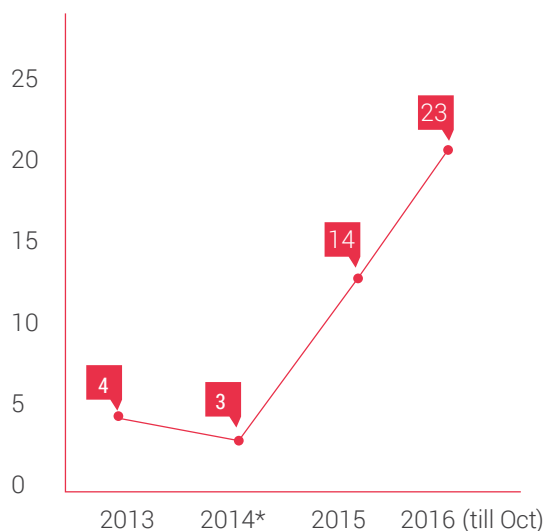


Fig 1: Number of Internet shutdown cases (year-wise)

After Jammu & Kashmir, Gujarat has seen the most number of Internet shutdown cases — eight of them — since October 2016. Mobile Internet services were cut off in Mehsana, Ahmedabad, Surat and Rajkot following demonstrations by the Patel/Patidar community¹⁸. In 2015, Gujarat had witnessed a similar Internet shutdown in Vadodara region following communal unrest over a Facebook post. The state government also blocked Internet services for four hours to prevent misuse of mobile phones during a recruitment exam¹⁹.

There were five shutdowns on mobile and Internet in Rajasthan and four in Haryana in 2016. These shutdowns were not limited to specific locations, but extended to an entire city or state. State authorities in Haryana had blocked mobile Internet in certain districts after a Jat community protest for reservations turned violent. Affected districts included Rohtak, Sonapat and Jhajjar.

Other than mobile Internet, state authorities also banned text messaging services on various instances. In these cases, police used Section 144 of CrPC, which deals with unlawful assembly, to ban mobile Internet services as well as assemblies with over five people. In December 2015, the Rajasthan government blocked mobile Internet services in some districts in several districts due to sectarian clashes. Other states where incidents of Internet shutdown were seen include Uttar Pradesh, Jharkhand, Meghalaya, Manipur and Nagaland. Annexure 1 defines incidents where a shutdown occurred.

This 2016, between May and June alone, India witnessed nine cases of Internet shutdown, not including the more than 100-day-long virtual curfew imposed in the

¹⁸ News Report, "Mobile Internet services cut off in Gujarat districts & Bokaro, Jharkhand", <http://www.medianama.com/2016/04/223-mobile-Internet-ban-gujarat-bokaro/>

¹⁹ News Report, "To beat exam cheats, Gujarat to block mobile Internet today", <http://timesofindia.indiatimes.com/india/To-beat-exam-cheats-Gujarat-to-block-mobile-Internet-today/articleshow/51173461.cms>

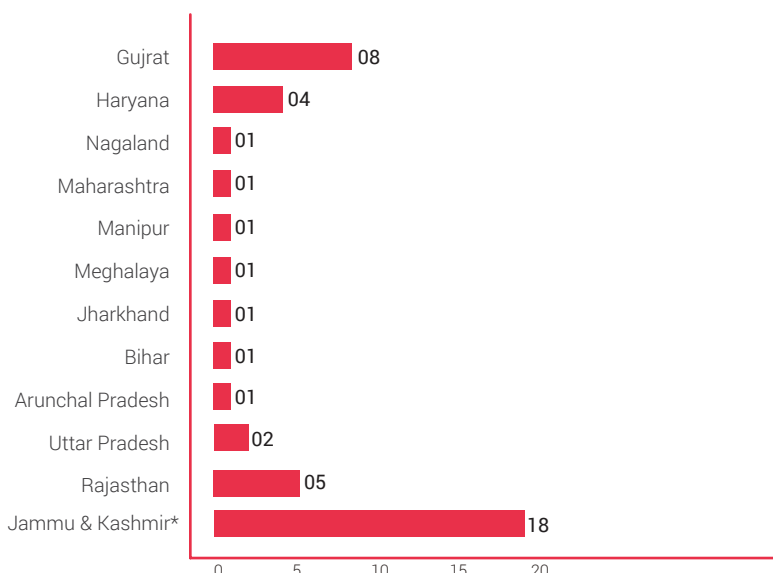


Fig 2. State-wise number of shutdowns (till Oct 2016)

Valley on July 8, 2016. Twenty-one network shutdowns were in India noted between January 2013 and January 2016.

From 2013 to 2016, Jammu & Kashmir has had the longest duration of network shutdowns with 2400 hours (100 days = 24 hour per day x 100 days) followed by Gujarat with 405 hours (about 17 days). Manipur witnessed one week-long network shutdown in 2015. It was imposed by the state government to allegedly prevent spread of rumours that would have provoked people to take to the streets and set things on fire in protest again the state government for failing to relieve the plight of the tribal people. Duration of Internet shutdown is unavailable for Haryana, Rajasthan, Uttar Pradesh and Jharkhand during this period. Jammu & Kashmir faced 16 shutdowns from 2013 to 2016 due to "terrorist attack", "social unrest", "possibility of spread of rumours on social media" or "precautionary measure in view of the Prime Minister's rally in Srinagar". Meanwhile, "social unrest" due to issues of beef ban, Jat agitation, reservation and terrorist attacks were some of the main reasons for network shutdowns in Haryana and Gujarat during the same period. The reasons behind the shutdowns were not always properly described though. In most cases, state governments allowed these shutdowns in the time of protests. Some of the reasons —Pointers need time frame are as follows²⁰:

1. In Gujarat, Internet services were cut off for a little more than a week in September 2016 following protests by the Patel community, which had demanded reservations.
2. In the same month, services in Godhra (Gujarat) were suspended for 24 hours following circulation of derogatory messages against Islam.

20 <http://www.medianama.com/2015/12/223-rajasthan-Internet-block/>

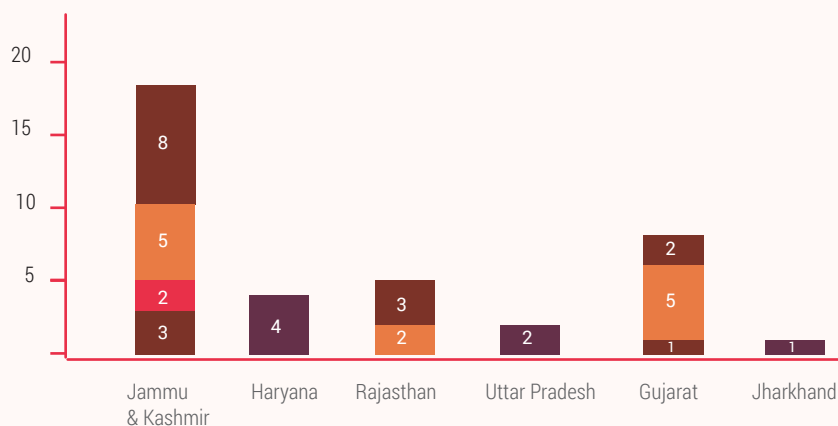


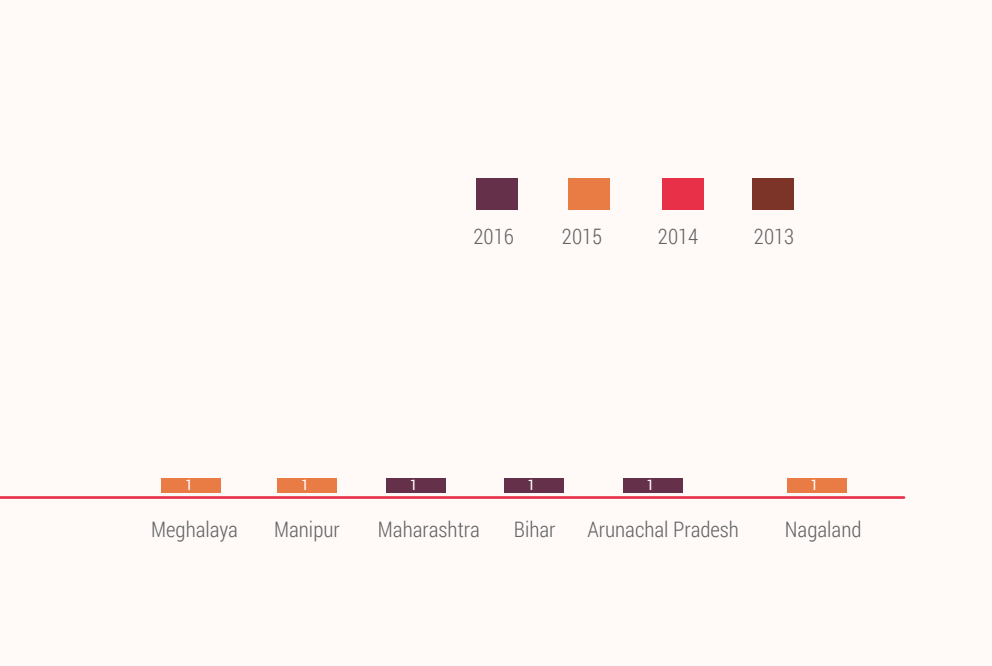
Figure 1: State-wise data of Internet shutdown in India

3. Jammu & Kashmir suspended Internet services for two days following apprehensions of violence in the state in light of beef ban.
4. In Manipur, there was a shut down on mobile Internet services following three Bills, which were passed, which allegedly infringed the rights of tribals in the state.
5. In Rajasthan, the shutdown came following communal clashes in the districts of Nagaur, Dungarpur, Udaipur, Bhilwara and other parts of the state.

There are various instances when governments have asked Internet service providers to shut down all Internet-based services & applications such as WhatsApp and social media services in response to public security concerns.

These shutdowns have shown adverse effects on free speech, expression, ability to associate and assemble. Internet and the presence of social media such as Facebook and Twitter have been proven to enable people to express themselves. For example, posting about religious or political opinions empowers individuals to participate in democratic practices and discussions. Individuals often access, communicate and disseminate information on the Internet regarding government policies, developments, news and media. Online petition platforms like Change.org and mobile chatting applications like WhatsApp are widely used to protest, assemble and coordinate assemblies.

India has one billion mobile subscriptions in the country. It is one of the cheaper modes of communication for ordinary citizens. However, the very ubiquity of the mobile phone means that during a shutdown, both legitimate and allegedly-illegitimate activities are



affected. According to the Internet and Mobile Association of India (IAMAI) - Indian Market Research Bureau (IMRB) report, 'Mobile Internet in India 2015', 80 per cent people in urban India are using mobile Internet for online communication, 74 per cent for social networking, 30 per cent for entertainment, 13 per cent for online shopping and 11 per cent for online ticketing²¹ purpose. In rural India, on the other hand, 52 per cent people are using mobile Internet for entertainment, 39 per cent for social network, 37 per cent for communication, 1 per cent for online shopping and 0.4 per cent for online ticketing. This simply reflects that people in India, both from urban and rural regions, are using the Internet on mobile phones in their daily lives. However, in the event of a shutdown, those who are directly affected are either not concerned about the consequences for legitimate activities or there is not a mechanism that allows them to reflect that concern.

In some situations — for example, during a peaceful protest where the government fears unrest or a riot and executes a shutdown — individuals are being denied the right to express, associate and assemble as well as their personal freedoms and liberty, which are guaranteed by the Indian Constitution. The wider adverse impacts of network shutdowns on human rights are as follows:

Security of citizens: Though most of these shutdowns occur in the name of national security and to maintain social stability and citizens' security, people are unable to assure family and friends that they are safe during shutdowns, especially in emergency situations.

21 News Report "Mobile Internet users in India to reach 371 mn by June 2016"; <http://indianexpress.com/article/technology/tech-news-technology/mobile-Internet-users-in-india-to-reach-371-mn-by-june-2016/>

Restricted access to emergency services: The State's primary duty is to protect the right to life. During the time of a shutdown, the government may be trying to protect the right to life by preventing a possible bomb from being detonated or by preventing spread of violence but the government's action also creates risks of interrupting access to emergency health services from a mobile phone. For example, injured people are neither able to call an ambulance or a doctor nor are they able to get in touch with security forces to seek relief.

Education: Students in institutions with access to online education material cannot access the content during periods of network disruption.

Economic impact: Small businesses and daily wage labourers are unable to operate; and their livelihoods are affected during shutdowns. Banking is one of the most affected sectors in India during an Internet shutdown. The economic consequences are quite high for a network shutdown. According to the Times of India, Gujarat suffered a loss of ₹ 7,000 crore (₹ 70 billion) due to a six-day Internet shutdown and SMS block in 2015²². People suffered through income returns, business dealings got delayed, and communications channels between common men were banned. People were even unable to access One-Time Passwords on their mobiles²³ for e-transactions. According to the report by the Brookings Institution²⁴, India lost USD 968 million due to 72 days of the Internet shutdown from 2015 to 2016. The country suffered a loss of USD 190 million when mobile Internet services were disrupted in Rohtak and Jhajjar, Haryana, for a week in 2016.

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

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

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

RECOMMENDATIONS

Ensure continued access to emergency services: There is a need to explore new ways in collaboration with telecom operators to access emergency services during the time of a shutdown or disruption. Access to communication with emergency services should be guaranteed to the public at all times, even during network shutdowns.

Review the policy: The government should work with telecom operators and the civil society to find alternative models for network shutdowns wherever possible. There is a need to review the current laws and determine whether shutdowns should require further clarification by the authority or if the scope of shutdowns can be narrowed. There is also a need to consider target responses in case of specific threats. Thus, there is a need to review the policy to take effective measures to examine means of communication.

Engage judiciary: Governments should develop a legislation to deal directly with suspension of mobile services in a clear and transparent manner, taking into account international human rights obligations. Such legislations should be subject to parliamentary review and judicial oversight.

Establish dialogues with companies: The government should engage with telecom operators to minimise the impact of shutdowns. It should also consider soliciting public views on the impact of network shutdowns with the aim of improving communication and transparency.

Engage citizens for constructive dialogue: The government should be open to public stakeholder consultations and must engage citizens to seek alternative solutions to when shutdowns.

Maintain transparency: Wherever possible, the government should make information publicly available about a shutdown — its duration, area of implementation and reason. It is also recommended that the concerned government should come out with an official press document after the shutdown has been imposed to list its details, impact and the reason or legal justification in an effort to improve transparency and reduce confusion in the public domain.

Provide compensation to operators & other businesses: Financial losses incurred during network shutdowns should be adequately compensated during the time of a shutdown.

Conduct stakeholder consultation: According to the UN Guiding Principles on Business and Human Rights, businesses should build relationships and mutual understanding with stakeholders. In the ICT sector, in case of a network shutdown, both the company and local civil society have the same aim;—to reduce the frequency of network shutdowns. Both can utilise their distinct skills and leverage each other's knowledge to

achieve this by joining forces. Greater alignment between the private sector and the civil society has the potential to produce real and long-lasting actions that will ultimately improve the enjoyment of human rights.

Create a consumer grievance mechanism: The government and telecom operators should come with solutions to report adverse impacts experienced during network shutdowns, including impacts on health, education and work. Government and companies should also explore how customers can be compensated for loss of access to services during network shutdowns.

Inform citizens on shutdowns: All shutdown requests to network operators should be made in writing. The request should specify the duration and geographical reach of the shutdown as well as the reason. Shutdowns should also be limited in duration and geographical area and be proportionate to the perceived level of risk.

Document shutdowns: All network disruptions should be logged/recorded, and the government should publish an annual list of all shutdowns to maintain transparency and accountability within the system.

CONCLUSION

The spread of ICT has been rapid due to increasing innovations and decreasing costs in mobile technology, thus allowing remote and rural parts of the world to connect, and in some cases sidestep landlines altogether. The importance of communication is recognised internationally as having a profoundly positive effect on the enjoyment of civil, political, economic, social and cultural rights, especially with respect to freedom of expression, freedom of association and assembly, the right to education as well as the right to work.

All these incidents of Internet shutdown, ban on mobile services and restricted issuance of licences for community radio stations, among others, completely violate an individual's freedom of expression, right to access online and freedom of assembly and association online. The practice of restricting or blocking Internet and mobile services also contradicts the United Nation's new Sustainable Development Goal 9 that states, "Increase access to information and communication technology and strive to provide universal and affordable access to the Internet in least developed countries by 2020". Thus, human rights implications of restricting and blocking the Internet or mobile services; and intentional creation of communication or media dark zones by not giving licences to community radio stations or by not providing enough infrastructure for Internet services or by imposing laws and policies that violate right to access online, freedom of expression online and freedom of assembly and association online, need to be analysed and investigated critically.

Network shutdowns are usually justified on security grounds, and the counter-argument is often framed around the impact on freedom of expression. However, the impacts of network shutdowns can have far-reaching, adverse economic and social implications and could even affect future economic growth. Furthermore, they can actually endanger the very right it seeks to preserve, the right to life, by denying users the ability to connect to family, health services and emergency services.

To balance freedom of expression with other human rights at times is a difficult and delicate task. By investigating challenges that make this task complicated and by shedding internal mechanisms, the tasks of activists from the region would be to contribute to promote and strengthen the right to freedom of expression online, right to access online, right to freedom of association and assembly online in India. This report is a part of a continuous effort to understand social and economic costs of Internet and mobile Internet shutdowns in the country.

Annexure 1 – Media Coverage of Internet Shutdowns in India (2013-16)

The data presented in this table is updated as of October 10, 2016

	Links	Reasons
1	http://www.hindustantimes.com/india-news/mobile-Internet-services-suspended-in-protest-hit-nashik/story-chybNWRPW1j7mH0onDhJON.html	Mobile Internet services and bulk SMS were blocked for two days in Nashik district as protests emerged over the alleged rape attempt of a 5-year old girl by a teenage boy
2	http://indiatoday.intoday.in/story/Internet-curfew-up-bijnor-communal-clashes-harassment/1/766952.html	Internet services were suspended in the Bijnor district on for reportedly 48 hours after communal clashes ensued in the region due to the alleged harassment of a school girl.
3	http://timesofindia.indiatimes.com/city/jaipur/Internet-blocked-in-Bhilwara-to-curb-spread-of-rumours/articleshow/54369844.cms	Internet services were blocked for a day in Bhilwara on after the stabbing of a 21 year old Vishwa Hindu Parishad activist as he was returning home from Ganpati Puja.
4	http://www.ndtv.com/india-news/broadband-Internet-services-resume-in-kashmir-valley-1459976	Ahead of Eid celebrations, broadband Internet services were suspended in Kashmir on 12th September, 2016 as a precautionary measure in light of the ongoing violence in the region. These services were reportedly resumed on 17 September, 2016. However, mobile Internet services remain suspended since 9th July, 2016
5	http://www.ndtv.com/india-news/broadband-Internet-services-suspended-across-Kashmir-1443867	After the disconnect from mobile Internet services since 9th July, 2016, broadband Internet services were also suspended in the Jammu & Kashmir valley on 13th August, 2016 as a precautionary measure to prevent rumor mongering due to unrest between the protestors and the security forces.
6	http://www.telegraphindia.com/1160812/jsp/frontpage/story_101982.jsp#.WEBp-Hdh1o7	Mobile Internet services were disrupted for two days in Itanagar, Arunachal Pradesh on 10th August, 2016 following the death of former Chief Minister of Arunachal Pradesh, Kalikho Pul.

Date & Year	Place	State
10th-11th October, 2016	Nashik	Maharashtra
18th September, 2016	Bijnor district	Uttar Pradesh
16th September, 2016	Bhilwara	Rajasthan
12th -17th September, 2016	Kashmir	Jammu & Kashmir
13th Aug, 2016	Kashmir	Jammu & Kashmir
10th August, 2016	Itanagar	Arunachal Pradesh

	Links	Reasons
7	http://timesofindia.indiatimes.com/city/patna/Section-144-imposed-Internet-banned-in-Saran-after-deity-desecration-video-goes-viral/articleshow/53571544.cms	'Due to communal clashes in the Saran district after a video of the desecration of Hindu deities went viral on social media, all Internet services were shut down in the district under Section 144 of CrPC on 6th August, 2016 to prevent spread of rumors.
8	http://indianexpress.com/article/india/india-news-india/Internet-services-suspended-in-jammu-amid-mounting-tension-in-chenab-valley-2954958/	Due to bandhs being declared in the Chenab valley to show solidarity with protests being undertaken by Kashmiris, mobile Internet services were suspended in Jammu region on 5th August, 2016
9	http://indianexpress.com/article/india/india-news-india/mobile-Internet-services-suspended-in-kashmir-2902579/	Following the killing of Burhan Wani, Kashmir valley experienced a suspension of mobile Internet services to check the spread of rumors by anti-social elements on 9th July, 2016
10	http://economictimes.indiatimes.com/tech/Internet/mobile-Internet-blocked-in-jaisalmer-barmer/articleshow/52992932.cms	After the death of a person in police firing, mobile Internet services were shut down in Barmer and Jaisalmer for 48 hours on 30th June, 2016 as calls for a Bandh was announced by the community members of the person who was killed.
11	http://www.greaterkashmir.com/news/pir-panjal/mobile-Internet-services-snapped-in-poonch/221112.html?fromNewsdog=1	Over a controversial issue, mobile Internet services were suspended in the Poonch district on 22nd June, 2016 on operational and security grounds and to prevent law and order situations
12	http://www.thehindu.com/news/national/other-states/Jammu-goes-offline-ahead-of-controversial-wrestling-event/article14393564.ece	Mobile Internet services were suspended in Jammu region on 22nd June, 2016 ahead of a wrestling match, the venue for which is disputed between two communities, and experienced violence in 2014 as well.

Date & Year	Place	State
6th August, 2016	Saran district	Bihar
5th August, 2016	Jammu & Kashmir Jammu region	Jammu & Kashmir
9th July, 2016	Pulwama district and the towns of Anantnag, Shopian, Pulgam and Sopore, and some parts of Srinagar	Jammu & Kashmir
30th June, 2016	Barmer and Jaisalmer	Rajasthan
22nd June, 2016	Poonch district	Jammu & Kashmir
22nd June, 2016	Jammu	Jammu & Kashmir

	Links	Reasons
13	http://indianexpress.com/article/india/india-news-india/jammu-temple-row-mobile-Internet-services-restored-across-state-2861163/	Mobile Internet services were suspended in the entire state after a youth resorted to vandalization and desecration of a temple in Jammu, that led to a spur of violence in the region on 15th June, 2016. The services were reportedly restored on 18th June, 2016.
14	http://indianexpress.com/article/india/india-news-india/jat-reservation-live-updates-protest-haryana-hisar-rohtak-jind-ambala-2835462/	Mobile Internet services and bulk SMS were blocked in Rohtak on 5th June, 2016, along with the prolonged shut down in Sonipat as well, to curb the use of social media from instigating violence in the Jat agitation.
15	http://indianexpress.com/article/india/india-news-india/haryana-jat-quota-agitation-sonipat-mobile-Internet-service-banned-2835078/	Mobile Internet services and bulk SMS were blocked in Rohtak on 5th June, 2016, along with the prolonged shut down in Sonipat as well, to curb the use of social media from instigating violence in the Jat agitation. Mobile Internet services were blocked in Sonipat, Haryana on 4th June, 2016 until further notice to prevent spread of misinformation prior to the agitation organized by the Jat community on 5th June, 2016
16	http://timesofindia.indiatimes.com/city/lucknow/Internet-blocked-in-riot-hit-Azamgarh/articleshow/52300964.cms	In Azamgarh, the local administration resorted to suspension of mobile & broadband services from 17th to 18th May, 2016 as a precautionary measure to check the outbreak of riots due to communal tension in the area.
17	http://indianexpress.com/article/india/india-news-india/gujarat-curfew-imposed-in-mehsana-as-patels-rally-turns-violent-lalji-patel-injured-2757681/	Pursuant to the Patel reservation agitation, mobile Internet services were suspended in various parts of Gujarat on 17th April, 2016
18	http://timesofindia.indiatimes.com/city/ranchi/Internet-services-blocked-in-Bokaro-after-communal-tension/articleshow/51856786.cms	Subsequent to the communal clashes in the city of Bokaro during celebration of Ram Navami, Internet services were cut off on 16th April, 2016 to prevent spreading of communal fear and hatred through social media.

Date & Year	Place	State
15th June, 2016	Entire state	Jammu & Kashmir
4th June, 2016	Rohtak	Haryana
5th June, 2016	Sonipat	Haryana
17th - 18th May, 2016	Azamgarh	Uttar Pradesh
17th April, 2016	Ahmedabad, Mehsana, Surat and Rajkot,	Gujarat
16th April, 2016	Bokaro	Jharkhand

	Links	Reasons
19	http://www.hindustantimes.com/india/handwara-firing-mobile-Internet-services-suspended-in-kashmir/story-iPQHs3vdmIWx7w0uCGK8NJ.html	To check rumor mongering about an incident that led to death of 4 people in a firing by security forces, mobile Internet services were suspended in the area on 14th April, 2016.
20	http://indianexpress.com/article/india/india-news-india/jat-reservation-agitation-mobile-Internet-haryana/	Mobile Internet services were suspended in various districts in Haryana as a prohibitory measure in light of the possible re-agitation of the Jat community for classification as Other Backward Classes (OBC) on 18th March, 2016
21	http://zeenews.india.com/news/india/mobile-Internet-services-blocked-in-gujarat-know-why_1860264.html	Mobile Internet services were suspended for 4 hours in the entire state to prevent cheating on the Revenue Accountants Recruitment Exam on 28th February, 2016
22	http://indianexpress.com/article/india/india-news-india/jat-quota-protests-in-rajasthan-districts-called-off/	Due to the agitations of the Jat community for reservations as OBC, Internet services were shut down on 22nd February, 2016 and restored on the evening of 23rd February, 2016 in the Bharatpur district.
23	http://indianexpress.com/article/india/india-news-india/rohtak-jat-reservation-mobile-Internet-blocked-haryana/	Mobile Internet services were suspended by Rohtak administration in Rohtak and Jhajjar following violent protests by Jats in Haryana demanding reservation in government jobs and educational institutions under OBC category.
24	http://timesofindia.indiatimes.com/india/Rajasthan-police-to-ban-Internet-usage-as-per-needs-to-maintain-communal-harmony/articleshow/50258271.cms	After reports of caste & communal clashes in the area, the police has permission from the state home department to ban mobile Internet services as per the need to combat inflammatory messages posted through social media networks, starting 19th December, 2015
25	http://www.firstpost.com/india/mobile-Internet-services-blocked-in-kashmir-for-pm-modis-rally-in-srinagar-2498760.html	On the visit of Prime Minister, Narendra Modi, the mobile Internet services were temporarily blocked in the Kashmir region as a precautionary measure for his high profile address at a public rally on 7th November, 2015.

Date & Year	Place	State
14th April, 2016.	North Kashmir, Srinagar and southKashmir's Pulwama district	Jammu & Kashmir
18th March, 2016	Rohtak, Jhajjar	Haryana
28th February, 2016	Entire state of Gujarat	Gujarat
22nd - 23rd February, 2016	Bharatpur	Rajasthan
19th February, 2016	Rohtak and Jhajjar	Haryana
19th December, 2015	No specific areapermission to block Internet in village, town, city as per need	Rajasthan
7th November, 2015	Srinagar	Jammu & Kashmir

	Links	Reasons
26	http://indianexpress.com/article/india/india-news-india/mobile-Internet-services-banned-in-rajkot-as-patidar-threat-looms/	The Rajkot administration banned mobile Internet services in the district, ahead of the third India versus South Africa One-day International, after Patel quota stir leader Hardik Patel threatened to stage a protest at the Khanderi stadium during the match.
27	http://www.theshillongtimes.com/2015/10/13/admin-justifies-blocking-Internet/	Internet services were blocked in the Garo Hills region for 24 hours to prevent spread of inflammatory messages during the voting period for the Garo Hills Autonomous District Council (GHADC) elections on 11th October, 2015.
28	http://www.dnaindia.com/india/report-beef-ban-mobile-Internet-services-cut-in-jammu-after-tension-in-udhampur-2132781	Jammu experienced suspension of mobile Internet services on 8th October, 2015 to prevent misuse of social media after three carcasses of slaughtered cows were found in the Udhampur area, and the organization of a beef party by an independent MLA
29	http://indianexpress.com/article/india/gujarat/gujarat-Internet-services-in-godhra-suspended-for-24-hours/	Mobile Internet services were shut down as a precautionary measure in the town for 24 hours on the occasion of Ganesh Visarjans, when derogatory messages against Islam started making rounds on Whatsapp on 28th September, 2015
30	http://indianexpress.com/article/india/india-others/to-avoid-tension-during-eid-ul-zuha-govt-ban-Internet-in-jk-for-two-days-from-tomorrow/	Internet shut down during Eid celebrations on 25th September, 2015 for 2 days, apprehending violence against the prohibition on cow slaughter and selling of beef in the State.
31	http://www.newindianexpress.com/nation/2015/sep/19/Hardik-Arrested-in-Surat-Mobile-Internet-Banned-817241.html	The city of Surat experienced suspension of mobile Internet services on 19th September, 2015 as Hardik Patel was detained by the police for violating prohibitory orders against taking out a rally in the area.
32	http://timesofindia.indiatimes.com/city/surat/Internet-banned-in-Navsari-from-midnight/articleshow/48935102.cms	From 12th September to 13th September, 2015, Internet services were cut off in the district of Navsari, Gujarat in lieu of a march organized by Hardik Patel & his affiliated political organization.

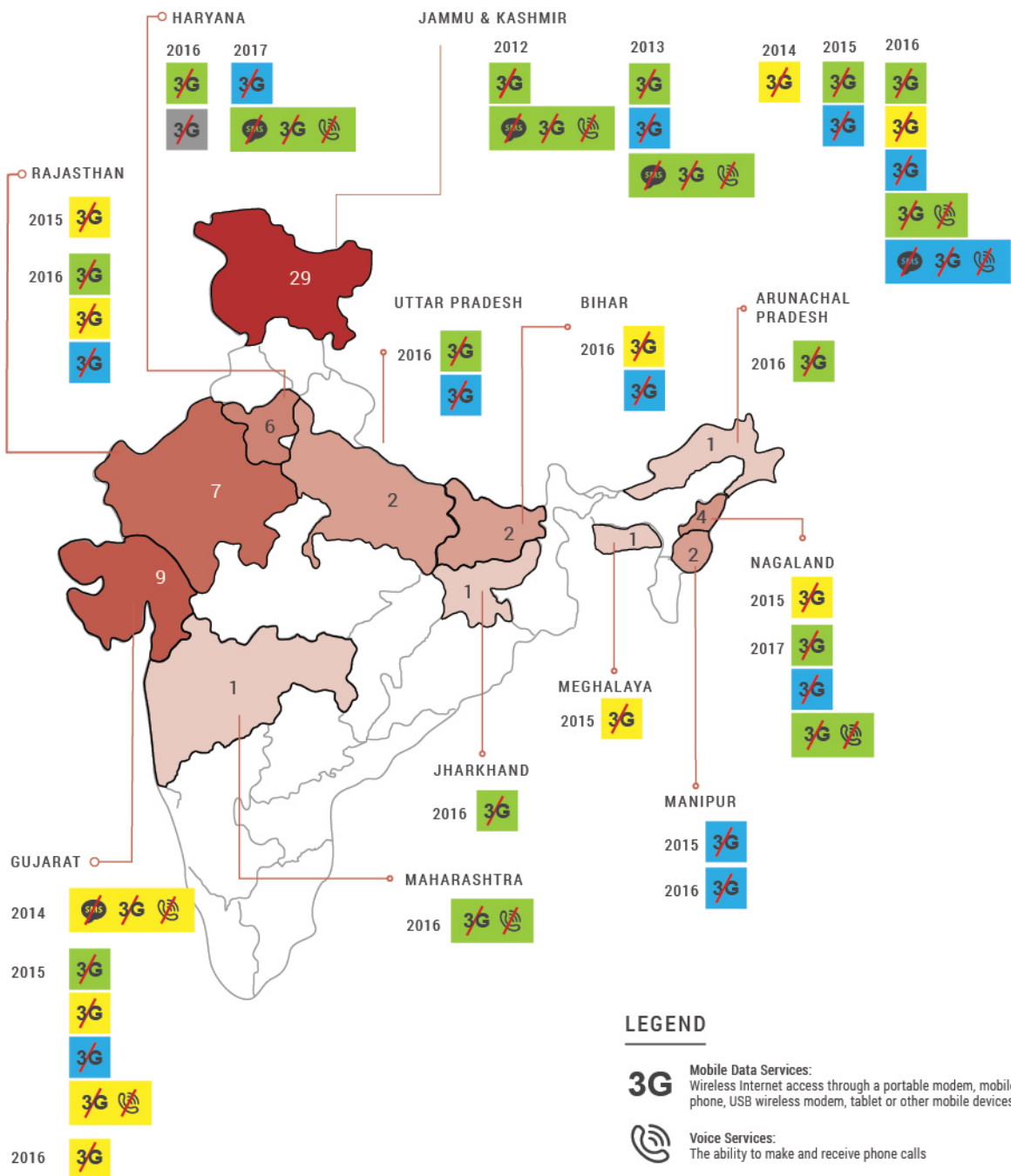
Date & Year	Place	State
17th October, 2015	Rajkot	Gujarat
11th October, 2015.	Garo Hills	Meghalaya
8th October, 2015	Jammu	Jammu & Kashmir
28th September, 2015	Godhara	Gujarat
25th September, 2015	Entire state of Jammu & Kashmir	Jammu & Kashmir
19th September, 2015	Surat	Gujarat
12th September to 13th September, 2015	Navsari district	Gujarat

	Links	Reasons
33	http://scroll.in/article/753108/why-a-blanket-ban-on-the-Internet-in-troubled-manipur-is-not-a-good-idea	Complete Internet shut down (mobile and broadband, except for certain BSNL lines) starting 2nd September, 2015 after violence in Churachandpur district
34	http://articles.economictimes.indiatimes.com/2015-09-02/news/66144045_1_statewide-ban-mobile-Internet-social-media	Mobile Internet services shut down in the entire state of Gujarat from 25th August to 2nd September, 2015 after a mega rally led by Hardik Patel seeking OBC status for the Patel community. Mobile Internet remained blocked in Ahmedabad & Surat, even post 2nd September, 2015
35	http://articles.economictimes.indiatimes.com/2015-08-15/news/65525213_1_mobile-Internet-services-independence-day-bakshi-stadium	Due to the sudden rise in militant activities in Kashmir, as a preventive measure, mobile Internet services were suspended from 8:30 am till 12:00 noon during the Independence Day celebrations in the area on 15th August, 2015. Similar measures are adopted on both, Republic Day & Independence Day in the area every year
36	http://zeenews.india.com/news/jammu-and-kashmir/Internet-blocked-temporarily-due-to-sikh-police-clash-in-jammu_1607966.html	Internet services were temporarily blocked in Jammu due to the ongoing clashes between the Sikh groups and the state police of Jammu & Kashmir on 5th June, 2015
37	http://www.medianama.com/2015/03/223-mobile-and-Internet-services-blocked-in-nagaland-following-lynching-videos/	Internet blackout for 48 hours on 7th March, 2015, after lynching video of a rape accused goes viral
38	http://timesofindia.indiatimes.com/city/vadodara/Internet-services-blocked-in-Vadodara-after-riots/articleshow/43674499.cms	Mobile Internet blocked for three days starting 27th to 30th September, 2014 in the city of Vadodara, after riots over a morphed picture of a Muslim religious shrine
39	http://www.kmsnews.org/news/2014/03/18/india-shuts-down-Internet-to-prevent-mirwaiz-address.html	Internet blocked in the whole state to stop pro-independence leaders from addressing a UNHRC event in Geneva via video link on 17th March, 2014

Date & Year	Place	State
2nd September, 2015	Entire state of Manipur	Manipur
25th August to 2nd September, 2015	Entire state of Gujarat, with prolonged bans in Surat & Ahmedabad	Gujarat
15th August, 2015	Kashmir	Jammu & Kashmir
5th June, 2015	Jammu	Jammu & Kashmir
7th March, 2015	Entire state of Nagaland	Nagaland
27th to 30 th September, 2014	Vadodara	Gujarat
17 th March, 2014	Parts of occupied Kashmir	Jammu & Kashmir

	Links	Reasons
40	http://www.livemint.com/Politics/r14LLwxLZE8sgMGVHTse0M/Curfewlikerestrictions-in-Kashmir-Valley-mobile-Internet.html	Due to organization of protests at the first death anniversary of Afzal Guru on 9th February, 2014, mobile Internet services, and Internet through plugged in devices was blocked in most parts of the Kashmir valley as a precautionary measure against apprehended violence.
41	http://articles.economictimes.indiatimes.com/2013-08-11/news/41295726_1_mobile-Internet-jammu-region-jammu-and-kashmir	The entire state experienced a blackout of mobile Internet services, lasting almost 5 days, starting 10th August, 2013, due to communal riots that spurred in the Kishtwar district of the state.
42	http://timesofindia.indiatimes.com/tech/tech-news/Internet-services-suspended-in-Kashmir-Valley/articleshow/21145412.cms	Disconnect of Internet services through mobiles & dongles in the Kashmir valley post the killing of four people in the Ramban district after clashes with the Border Security Forces (BSF) on 18 th July, 2013
43	http://economictimes.indiatimes.com/tech/Internet/mobile-Internet-services-restored-in-Jammu-&Kashmir-valley/articleshow/18527772.cms?intenttarget=no	Mobile Internet services were restored in the Jammu & Kashmir Valley after remaining suspended for a week in the wake of hanging of Parliament attack convict Mohammad Afzal Guru.
44	http://www.ibtimes.com/curfew-continues-indias-kashmir-valley-following-afzal-gurus-hanging-Internet-service-remains	TV News channels and mobile Internet banned immediately after Afzal Guru's execution on 9th February, 2013

Date & Year	Place	State
9th February, 2014	Jammu & Kashmir Most parts of Kashmir	Jammu & Kashmir
10th August, 2013	Entire state	Jammu & Kashmir
18 th July, 2013	Kashmir Valley	Jammu & Kashmir
13th February, 2013	Kashmir Valley	Jammu & Kashmir
9th February, 2013	Entire state of Jammu & Kashmir	Jammu & Kashmir



NETWORK SHUTDOWN

