
Technology and Political Injustice: Legality of Banning Media and Communication in Democratic States

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Abstract: *The notion and nature of protests in twenty first century India has evolved into a novel phenomenon. Like everything else, the modes of mobilisation, organisation and confrontation have transformed. The new dimensions of protests in recent times have given easy access to individuals through social media platforms. While empowering those who have access and control over this technology, it has become an anathema to those whose voices have been stifled as a way of systemic marginalisation. The case of Jammu and Kashmir in India is unique because of long and blatant disregard by national media and the incessant black out of World Wide Web by the state machinery. Since the beginning of year 2018, internet was suspended around 37 times in the state. With maximum instances of banning internet by any state in the world, Indian state has been seen violating the freedom of speech and expression as enshrined in the Article 19(1) of the constitution of India. Scores of social media sites are banned and blocked from time to time. In the recent times with the abrogation of article 370 of the constitution, Indian state has totally shut down all communication in the state of Jammu and Kashmir for more than thirty days on a stretch. These changing repertoires of the state's response to protests are leading us to newer questions challenging the inclusionary aim of Indian democracy. Why is it that certain sections are deprived of registering their protests? Where does this selective repudiation fit into the 'discourse ethics' of protests in democratic states?*

Keywords: *State Control, Democracies, Political Injustice, Internet Ban, Protests*

1. INTRODUCTION

Social media has become a fact of life and has changed the dynamics of communication in the present times. Governments, citizens, activists, non-governmental organisations have all sought the use of new age social media to revamp the way communication system operates. The ubiquity of social media has completely transformed the dimensions and horizons of communication. Unrestricted freedom brought in by internet has provided people access to unlimited information and freedom to unhindered communication. The modes of mobilisation, organisation and confrontation have transformed. While digitisation is creating spaces for equality and is rendering voice to marginalised people, the political control of governments over access to internet and social media is also taking it away. The great authority vested in governments resulting in curtailment of internet freedom has led to new forms of political injustices.

This paper seeks to highlight the changing dynamics of technology and increase in the control of government over it. This work draws attention to the fact that while a lot of authoritarian states censor and ban social media, certain democratic countries have been banning internet as law and order measure. This is in contravention to basic right to information and right to speech of the people of such democratic countries. I argue that it is time for the international community to develop certain international legal standards upholding the rights of people to internet freedom.

There is a change in the density and complexity of communication dynamics. The information revolution as technological marvel has totally altered the dynamics of the world. More people are connected to each other and there are more opportunities to engage and undertake collective action. The past two decades have seen interesting role of social media in bringing about political change. The new dimensions of protests have given easy access to individuals through social media platforms and enabled citizens to bring about political change. Easy access to information has led to the empowerment of people and has rendered them with an identity and voice. It has also connected people all over the world by transcending the geographical and political boundaries. The Arab spring uprising was possible because of the use of internet. The Me Too movement against predatory men in Hollywood

led to the mobilisation of women around the world in shaming and exposing the powerful predatory men in the film industry and otherwise.

Shirky (2011) has pointed out a number of instances around the whole world to analyse the effect of social media in bringing political change. In 2001, Philippines witnessed mobilisation of people through millions of text messages that were sent to organise and assemble people to protest against the government's effort at saving President Estrada. The magnitude of the people protesting against the corrupt president led to his ultimate downfall. In Spain in 2004, similar protests organised by mobilisation through text messages lead to the ouster of the Spanish Prime Minister Jose Maria Aznar. Year 2009 saw similar protests in the country of Moldova which were organised via Facebook, twitter and text messaging (Shirky 2011).

Social media has become a coordinating tool which can have enormous ramifications on the regimes. The process of understanding the use of social media and the unprecedented change that it has brought about in the functionality of the world is still in process. Countries, governments and social media experts are still discovering how to embed the use of social media in the legal structure of the countries. Considering the power that social media has provided to people to use or abuse through power of social media has led to discussions and debates about drafting legal rules regarding use of social media. While the democratic countries are more flexible with the internet freedom, it is believed that autocratic and authoritarian countries are trying to limit access to it.

2. UNITED STATES AND THE IDEA OF FREE INTERNET

United States has time and again espoused for the right of people to use internet freely. U.S state department has reported its commitment to Internet Freedom as a specific policy aim. The policy aligns itself with the strategic goal of strengthening civil society and it resonates with American belief of freedom of expression. The then U.S Secretary of State Hillary Clinton in January 2010 outlined the importance of total freedom to have complete access to information through the search engines like Wikipedia and Google. She outlined how certain countries like Iran, China and Burma are curbing ordinary people from having full control over the use of internet. United States also announced the funding for the development of tools designed to unrestricted access to internet to help people in such countries. However the tendency to attach the freedom of internet as a means to further the agendas which are country specific or regime specific can have serious consequences and could be ineffective at best. The United States espouses the freedom of internet more to align it with their interests of alienating certain countries rather than promoting true internet freedom. Shirky (2011) argues that the idea should be to use internet freedom as a means to strengthen civil society and empower the people to be vocal about their wishes. This approach of US falls short of really providing a good solution to the problem of internet freedom because of various problems:

1. This approach focuses only on the problem of access of information through search engines like Google and YouTube while completely disregarding the need for local coordination and the importance to communicate privately.
2. The instrumental approach used by US has not been very successful in supporting or developing the right kind of software technology. Case in point is some ineffective softwares advertised by the government agencies while neglecting various others which have proven to be more effective.
3. This approach is also regime specific by highlighting the crackdown on authoritarian states like Iran, China or North Korea but does not highlight the similar situation occurring in democratic countries like India.

3. INTERNET CENSORSHIP AROUND THE WORLD

Some countries like Russia, Pakistan, Iran, Saudi Arabia, China and Vietnam have clear cut rules regarding internet censorship. Russia has a legal framework which prohibits the sites advocating child pornography, drug abuse, extremism and other information which is damaging its citizens. This law however has also been used to prevent opposition to government policies. There have been instances of official communication between china and Russia regarding the transfer of technology by pro-censorship officials from China (Nossik 2014). Political censorship has also been in place in countries like Vietnam. They have a law known as Decree 72, which provides the government an authority to take down content which can be seen as offensive to the traditions of the country or to the national

security. Vietnam is also one of the countries which is known for prosecuting dissidents by putting them in jail. It has one of the highest numbers of prosecutions of social media bloggers and prohibits them to gather any information about government (Burrows 2008).

Countries like Saudi Arabia, Iran and Pakistan have effective systems of censorship to flag offensive content which is considered immoral under Islamic law. Saudi Arabia's regulation of immoral content on social media is also considered strong to be due to the public support in informing the government about offensive content (Burrows 2008). Iran also follows the Saudi style of censoring immoral sites like those of pornography as well as sites related to art news and society (Lee 2013). A study by Alex Halderman brought out the fact that out of 500 internet sites around the world, 250 have been blocked in Iran. Iran has a very strong mechanism where even web proxies and VPNs don't work.

Social media can be effectively used to create shared awareness in case of political movements. This helps the members of a society to understand a particular situation and then take coordinated efforts by coming forward for collective action. The shared awareness worked very well in China in 2008 after the earthquake. The information regarding the corruption by the government officials lead to the collapse of the school building killing children. This information was greatly shared by people in order to expose the corruption in the government. The Chinese government became aware about the possible effects of this awareness and began arresting protestors and threatening journalists. This condition is more commonly known as 'the dictator's dilemma' or 'conservative dilemma'. It is created by new media which restricts the monopoly of the government on public speech and assembly. Alternate narratives which are antithetical to the government's narratives are easily accessed by common public and hence put pressure on the government (Shirky 2011).

The conservative dilemma of the state is usually tackled either with censorship or propaganda. Censorship and propaganda are rather diplomatic ways of tackling the issues of the government or regimes but both have higher costs. The mixing of the popular culture with the political use of social media also heightens the problems associated with censorship.

Harvard Berkman Centre for internet and society in one of their studies, refer to this problem as "cute cat theory of digital activism". This refers to the fact that crackdown on broader platforms which are used by large populations like sharing meme of cute cats loaded with political meanings are difficult to shut down (Zuckerman 2013). On the other hand, shutting down internet access and banning cell phone networks are easier ways of cracking down dissident voices. It however has a greater risk of exacerbating dissent in regimes and also proves harmful for the economy. The internet infrastructure does not allow such easy ways of implementing censorship (Shirky 2011).

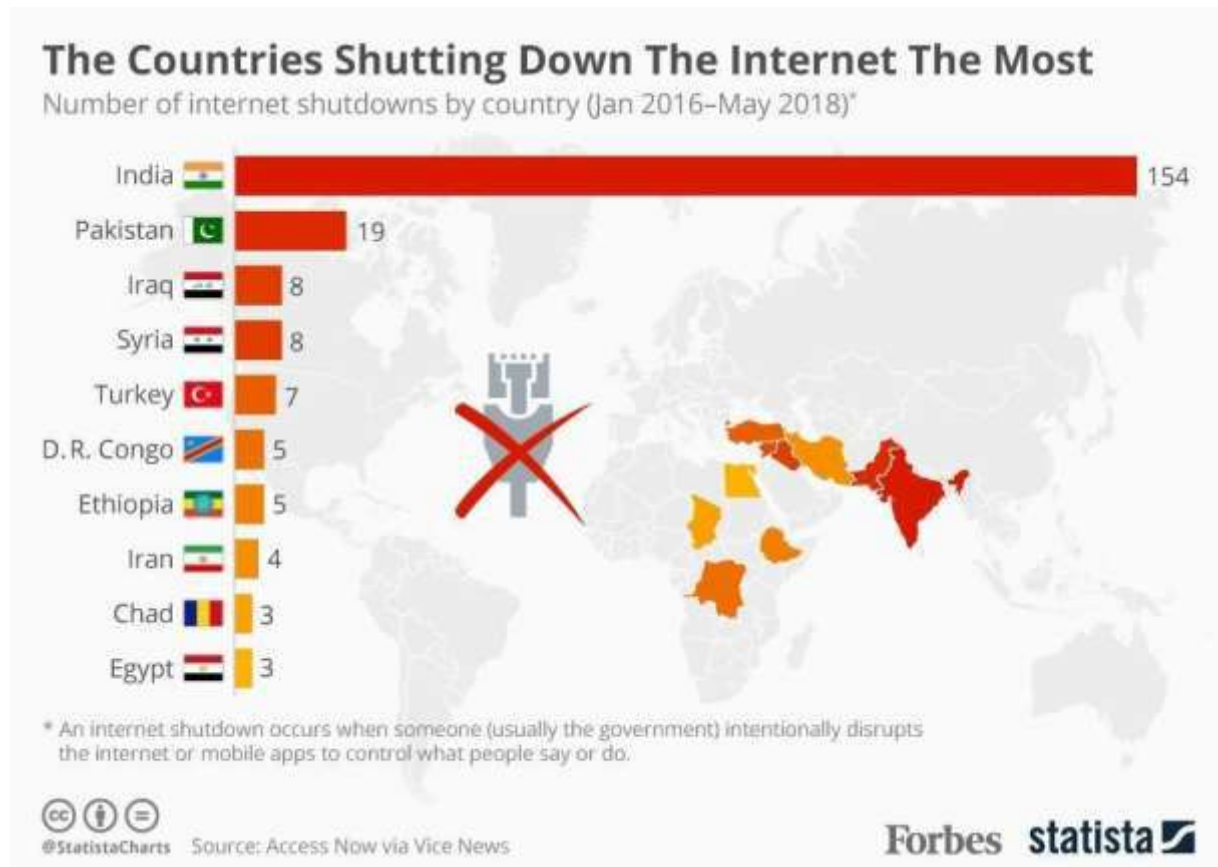
Reports from Pakistan also suggest prosecution of people and activists for spreading negative information about government and army. The linkage of phone numbers with social media account has resulted in large scale surveillance and easy access of government to people who indulge in any antigovernment activity online. The surveillance is widespread to the extent that the journalist and activists have become victims of social media crackdown. These countries are seen to be authoritative and do not give space to their citizens to enjoy freedom to choose what they want to consume as free citizens. This crackdown and censorship of social media has raised questions about the lack of standard international legal norms to enhance internet freedom for such countries.

4. THE CASE OF INDIA

Though most of these countries are considered to be authoritarian, other grave issues of banning internet have been prevalent in democratic countries like India. According to a report by vice news, India is a country with maximum number of internet shut downs in the recent times. Topping the charts where Pakistan is at the second position with 19 shut downs and Iraq and Syria with 8 shutdowns. India stands at top by reporting 154 shutdowns in the two and a half years from January 2016 to May 2018. Shutting down internet in India has become an easy and convenient way to curb protests especially in places of political turmoil. Government of India has resorted to banning communication services as law and order measure. Though there have been other instances of banning internet in certain instances like to prevent cheating in exams. But the majority of shut downs have been to deal with protest and political turmoil. In few places like Bihar and Darjeeling internet was shut down for 40-45 days because of

public demonstrations and communal clashes. However the maximum numbers of shut down have happened in the state of Jammu and Kashmir.

Jammu and Kashmir has been one of the unresolved conflicts of Indian state. Political instability with large scale violence and intense confrontations between protestors and armed forces has become a norm in this northern most state of India.



***Statistics chart from Vice News**

Internet shut down has been used both as pre-emptive and reactive measure to the rise of violent protests. Jammu and Kashmir has been a hotbed of conflict and militancy since the independence of country. A protest by people in all forms ranging from public demonstrations, using social media or stone pelting have been the norm. In order to deal with the public outrage the government often resorts to banning all means of communications. This includes the routine shutting down of mobile connections both internet and calling on national holidays like Independence Day or Republic day for the past three to four decades. Earlier the short messaging service (sms) would be banned in case of some unrest. Now with the burgeoning social media sites and improved instant messaging service and easy access to internet, the government has sought to banning internet both before and after encounters.

This phenomenon of banning public communication was first witnessed in early 2008 during the Amarnath land row which lead to large scale violence and communal tension in the state. Post 2008 the trend has been maintained with using internet ban as a pre-emptive effort to stop protests in the first place. The killings of militants and civilians are often followed by banning the internet to quell the news from reaching the audience and hence maintaining law and order. Banning of internet has become a norm. The suspension of internet is the first measure of the government in cases of any clashes or encounters in the region. This use of internet ban as a method of curbing unrest has also been flagged by United Nations. The UN special rapporteur on freedom of opinion and expression David Kaye reported that banning of internet is antithetical to the international human rights law and limits the freedom of expression. The report highlighted the worrying pattern of use of internet ban by government authorities (IANS 2013).

These internet bans are direct assault on the rights of freedom of expression by United Nations charter of human rights as well as the constitution of India. These bans do not only disrupt the free exchange of ideas and the ability to enjoy the benefits of new technologies but they also have devastating effect on the education and economic sectors. Jammu and Kashmir being a famous tourist destination suffers loss of millions of rupees due to the effect of internet ban. The frequent banning of internet in Jammu and Kashmir has also had immense effect on the online businesses in the state. These sites of commerce are wholly dependent on the availability of internet for their commerce and trade. The schools which have recently started using internet technology to enhance better communication among the teachers and parents are suffering from complete paralysis of communication. More so the students and researcher are denied their rights to access internet and use it for educational purposes. The frequent banning of internet has essentially taken the state back to old times.

Also banning of internet takes away the agency from the people to exercise their rights to dissent and express their anger and frustration. Curbing of internet takes away the very basic democratic value of the citizens to hold their government accountable for their deeds.

In light of the rising crackdown on people the democratic values of freedom and liberty have been curbed in India. And with the absence of any legal frameworks regarding the authority of the government to curbing the internet freedom, this has become a widespread way of camouflaging the problems of administration.

This kind of crackdown on protests by the government was also seen in Belarus in March 2006 and in Iran and Thailand in 2010. Street protest was coordinated over emails because of vote rigging in Belarus, it was curbed by the government authorities. In the green movement in Iran the protest was curbed by a violent crackdown by Iranian authorities. In Thailand, the red shirt uprising was limited by the government (Shirky 2011). Governments which are authoritative curb communication among their citizens because they fear that a coordinated populace have the ability to constrain their power to handle oppositions.

5. CONCLUSION

This work is aimed to start a discussion about the new dimensions of the political injustices in democratic states. Internet ban as a new means of handling protests in democratic countries is a worrying trend. Restriction on new forms of technology in absence of any legal paradigm is raising questions about new dimensions of political injustices. It is appropriate for the countries at the national and international level to recognise these new means of curbing protests as illegal. This kind of suppression on the forms of protests is in direct contravention of major human rights frameworks. It stands against the right to information, right to speech, right to have a political opinion and right to make informed political decisions. The time has arrived for the leaders of the world to uphold the basic democratic values and recognise the new means of protests important for vibrant democracies. The selective repudiation of certain sections to register their protests should be seen as serious case of political injustices in today's times.

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