

Date: April 6, 2023

To:

Shri Ashwini Vaishnaw
Minister for Railways, Communications, Electronics and Information Technology

Shri K. Rajaraman,
Chairman DCC & Secretary(T)
Department of Telecommunications
Ministry of Communications

CC:

The Ministry of Electronics and Information Technology

The Chairperson & Members of the Parliamentary Standing Committee on Information Technology

Subject: Review and reform of the legal and regulatory framework governing internet shutdowns in India.

We, the undersigned organizations, and members of the #KeepItOn coalition¹ — a global network of over 300 organizations from 105 countries — write to you to urge you to review the legal and regulatory framework on internet shutdowns in India. Unfettered access for all to an open, secure, and reliable internet is vital to the protection of fundamental rights in India, and to ensure that the livelihoods of increasing millions of people in India dependent on digital services and a connected economy are not disrupted.

According to Access Now and the #KeepItOn coalition's new report², India imposed 84 internet shutdowns in 2022 – the highest number globally for the fifth year in a row. The world's largest democracy has been responsible for approximately 58% of the total number of shutdowns documented since 2016. Each time access to the internet is hampered, so is people's ability to communicate with loved ones, earn a livelihood, exchange information, and obtain education, healthcare, and other vital public services.

As the UN High Commissioner for Human Rights³ (OHCHR) noted: “[S]witching off the internet causes incalculable damage, both in material and human rights terms” while “the costs to jobs,

¹ Access Now, #KeepItOn Coaliton, <https://www.accessnow.org/keepiton/>

² Access Now, *Five years in a row: India is 2022's biggest internet shutdowns offender*, <https://www.accessnow.org/keepiton-internet-shutdowns-2022-india/>

³ UN Human Rights Office of the High Commissioner, *Internet shutdowns: UN report details 'dramatic' impact on people's lives and human rights*, <https://www.ohchr.org/en/press-releases/2022/06/internet-shutdowns-un-report-details-dramatic-impact-peoples-lives-and-human>

education, health and political participation virtually always exceed any hoped for benefit.” Further, the OHCHR highlighted that “[t]he dramatic real-life effects of shutdowns on the lives and human rights of millions of people are vastly underappreciated and deserve much greater attention from States, international organizations, businesses and civil society.”⁴

According to one study, India suffered a loss of approximately 184.3 million USD⁵ on account of shutdowns in 2022, impacting 12,07,43,890 internet users, and small as well as large businesses across sectors. In 2021, the loss amounted to nearly \$583 million USD.⁶ A 2018 report⁷ noted that a shutdown over 10 days in a metropolitan area cost the state approximately 0.8% of the annual state GDP. And a Brookings study⁸ put economic losses in India due to shutdowns in 2016 at 968 million USD. In addition to hurting the economy at large, shutdowns negatively affect people’s livelihoods and directly contribute to loss of employment⁹. It must also be noted that any calculation of economic loss is not likely to fully capture the impact on informal economies, the disproportionate impact on women, and the long-term effects of marketplace uncertainty stemming from unreliable internet access for businesses, investors, and consumers.

The costs, both human and economic, of internet shutdowns are well documented. However, the benefits remain hypothetical, and there is no evidence to support claims that internet shutdowns help maintain public order. In fact, they may worsen such situations.¹⁰

The Indian Supreme Court has repeatedly sought accountability from the government on the procedure followed to impose shutdowns. In 2020, the Supreme Court clearly mandated¹¹ that “suspension of telecom services, be it the [i]nternet or otherwise, being a drastic measure, must be considered by the State only if ‘necessary’ and ‘unavoidable.’” It also required adherence with the proportionality standard under the Indian Constitution, and that shutdown orders be made public – requirements that authorities have consistently failed to comply with. In the backdrop of various high courts considering challenges¹² against shutdowns in different

⁴ UN Human Rights Office of the High Commissioner, *Internet shutdowns: trends, causes, legal implications and impacts on a range of human rights*,

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/341/55/PDF/G2234155.pdf?OpenElement>

⁵ Top10VPN, *Government Internet Shutdowns Cost Almost \$24 Billion in 2022*,

<https://www.top10vpn.com/research/cost-of-internet-shutdowns/2022/>

⁶ LiveMint, *The Cost of Internet Shutdowns in India, In Charts*,

<https://www.livemint.com/economy/internet-shutdowns-are-a-costly-affair-and-india-leads-in-them-11651475862075.html>

⁷ Indian Council for Research on International Economic Relations, *Economic Impact of Internet Shutdowns in India*, [https://nopr.niscpr.res.in/bitstream/123456789/44659/1/SR%2055\(7\)%2042-43.pdf](https://nopr.niscpr.res.in/bitstream/123456789/44659/1/SR%2055(7)%2042-43.pdf)

⁸ Brookings, *Internet shutdowns cost countries \$2.4 billion last year*,

<https://www.brookings.edu/wp-content/uploads/2016/10/intenet-shutdowns-v-3.pdf>

⁹ SFLC.in, *Internet Shutdowns In India 2022*, <https://sflc.in/internet-shutdowns-india-2022>

¹⁰ Jan Rydzak, *Of Blackouts and Bandhs: The Strategy and Structure of Disconnected Protest in India*, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3330413

¹¹ Supreme Court of India, *Anuradha Bhasin v. Union of India*, <https://indiankanoon.org/doc/82461587/>

¹² Internet Freedom Foundation, *Litigation Tracker*, <https://internetshutdowns.in/resources/Litigation>

contexts, and at least one high court lifting¹³ an ongoing shutdown, the Supreme Court has once again¹⁴ sought answers from the government.

Further, in December 2021, the Parliamentary Standing Committee on Communications and IT's report¹⁵ recognised the internet as a "lifeline", found that the current legal framework lacked clarity and safeguards, and that the process has limited consultation and oversight. The report made almost a dozen recommendations to the government to increase accountability, and create safeguards against misuse of powers. However, the government has not acted on any of the findings and recommendations. In February 2023, in its Action Taken Report¹⁶, the committee expressed disappointment at the lack of concrete action taken by the government in this regard. The committee's recommendations include a review of the legal regime for suspension of telecom services, and creation of a database of shutdown orders.

The spate of internet disruptions in India, and inherent arbitrariness in the laws permitting them, have a demonstrably adverse impact on people's fundamental and human rights as well as the economy. Persistent observations and demands in this regard by Indian courts and parliamentarians, alongside a wide range of stakeholders, point to a compelling need for review and reform.

We submit the following urgent asks:

- **Conduct a thorough, transparent review of the current legal and regulatory framework**, including the Indian Telegraph Act, Temporary suspension of Telecom Services (Public Emergency or Public Safety) Rules, and the Criminal Procedure Code, as well as pending policy proposals – such as the Draft Indian Telecommunication Bill, 2022 – relating to the suspension of telecom services, including by inviting and incorporating feedback from all stakeholders, such as civil society, telecom and internet service providers, media, and the public at large;

¹³Internet Freedom Foundation, *#KeepItOn: Calcutta HC disposes of Ashlesh Biradar's writ petition against internet shutdowns by directing that state authorities are bound to follow law*, <https://internetfreedom.in/keepiton-calcutta-hc-disposes-of-writ-petition-against-internet-shutdowns-directing-state-authorities-bound-to-follow-law/#:~:text=On%20March%2010%2C%202022%2C%20in.various%20parts%20of%20West%20Bengal>

¹⁴ SFLC.in, *SFLC.in's Writ Petition Challenging Arbitrary Internet Shutdowns During Examinations in the Supreme Court of India*, <https://sflc.in/sflcins-writ-petition-challenging-arbitrary-internet-shutdowns-during-examinations-supreme-court/>

¹⁵ Standing Committee on Communications and Information Technology, *Suspension of Telecom Services/Internet and its Impact*, https://loksabhadocs.nic.in/lssccommittee/Communications%20and%20Information%20Technology/17_Co mmunications_and_Information_Technology_26.pdf

¹⁶ Standing Committee on Communications and Information Technology, *Action Taken by the Government on the Observations/Recommendations of the Committee contained in their Twenty-sixth Report (Seventeenth Lok Sabha) on 'Suspension of Telecom Services/Internet and its impact'*, https://loksabhadocs.nic.in/lssccommittee/Communications%20and%20Information%20Technology/17_Co mmunications_and_Information_Technology_37.pdf

- **As a starting point, implement the rights-respecting recommendations of the Parliamentary Standing Committee on Communications and IT** pertaining to building meaningful safeguards, maintaining an official database on internet shutdowns, creating awareness among authorities about the Supreme Court's judgment in *Anuradha Bhasin v. UOI* and ensuring adherence with proportionality, make all the information that is sought by the committee available in the public domain;
- **Ensure compliance with the directions of the Supreme Court**, and make all shutdown orders public, including internet shutdowns ordered in previous years;
- **Commit to revamping the legal and regulatory framework** to protect and strengthen connectivity and people's fundamental rights; and
- **Refrain from arbitrarily imposing shutdowns or otherwise hampering access to the internet.**

Internet shutdowns amplify the existing digital divide in India. Any disruption in connectivity is misaligned with the country's Digital India vision and the Indian Government's stated desire to demonstrate its democratic tradition and global leadership as it holds the G20 presidency this year. We urge the government and the parliament to act on the recommendations in this letter, take concrete action and initiate inclusive processes to review and reform the current regime, and fundamental approach, to internet shutdowns in India.

Signatories:

Access Now
 Article 19
 Article 21 Trust
 Association for Progressive Communications
 Centre for Law and Democracy
 CIVICUS: World Alliance for Citizen Participation
 Digital Empowerment Foundation
 Digital Rights Watch
 Equality Labs
 Fight for the Future
 Freedom House
 Global Witness
 India Civil Watch International
 Internet Freedom Foundation
 Point of View
 Ranking Digital Rights
 Reporters Without Borders (RSF)
 SFLC.in

Swathanthra Malayalam Computing(SMC), India
Telangana Gig and Platform Workers Union (TGPWU)
The Bachchao Project