



SWITCHED OFF BY ORDER: INTERNET SHUTDOWNS IN INDIA AFTER ANURADHA BHASIN AND THE TELECOMMUNICATIONS ACT 2023

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I. ABSTRACT :

India has, for most of the past decade, shut down the internet more often than any other country in the world, and it remains the most frequent perpetrator among democracies. The legal architecture that permits this has changed more in the last six years than in the preceding century. In *Anuradha Bhasin v Union of India* the Supreme Court held that expression and trade through the medium of the internet enjoy constitutional protection, that suspensions must satisfy the test of proportionality, that orders must be published, and that indefinite suspension is impermissible. Parliament then repealed the Indian Telegraph Act 1885, the source of the suspension power, and replaced it with section 20 of the Telecommunications Act 2023; the Telecommunications (Temporary Suspension of Services) Rules 2024 followed. The new Rules codify several of the Court's requirements, including mandatory publication and a requirement that suspension be a last resort. This article asks whether these changes have made shutdowns lawful in the full constitutional and human rights sense, or only more orderly. It reconstructs the statutory history from section 5(2) of the Telegraph Act and section 144 of the Code of Criminal Procedure to the 2024 Rules, analyses what *Anuradha Bhasin* decided and what it deliberately left open, and applies the four-stage proportionality test to the practice of shutdowns, drawing on the Manipur shutdown of 2023 and the findings of the Parliamentary Standing Committee on Communications and Information Technology. It then reads Indian law against Article 19 of the International Covenant on Civil and Political Rights, the jurisprudence of the European Court of Human Rights, the decisions of the ECOWAS Court on shutdowns in Togo and Nigeria, and the First Amendment tradition in the United States. It concludes that the 2024 Rules improve the form of the suspension power without supplying its missing substance: independent review, a cumulative time limit, and an evidentiary burden on the State to show that a shutdown actually serves its stated aim. The article proposes reforms directed at each of these gaps.

II. KEYWORDS: Internet shutdowns; Anuradha Bhasin; proportionality; Telecommunications Act 2023; freedom of expression.

III. INTRODUCTION

On 3 May 2023, as ethnic violence spread across Manipur, the State Government suspended mobile internet services throughout the State. Broadband was suspended the following day. The orders were framed as temporary, as the law required, and each was limited in duration. But each was followed by another. The State-wide shutdown was extended again and again, around twenty times by August, so that a population of over three million people lived for months without mobile data.⁴ Residents could not pay bills, complete school and college admissions, receive payments or reach family. It was the Manipur High Court, not the executive's own review mechanism, that eventually directed a partial restoration of connectivity through leased lines and whitelisted connections.⁵

Manipur is not an aberration. According to the annual reports of Access Now and the #KeepItOn coalition, India imposed more internet shutdowns than any other country every year from 2018 to 2023. In 2024 it recorded 84 shutdowns and was overtaken only by Myanmar, then under military rule, which recorded 85.⁶ In 2025 India recorded 65 shutdowns, the lowest figure since 2017 but still the second highest in the world and the highest of any

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⁴ Internet Shutdowns Tracker (SFLC.in), 'A Trend of Long Internet Shutdowns in India: The Manipur Crisis' (16 October 2023) <<https://internetshutdowns.in/blog/trend-long-internet-shutdowns-india-manipur-crisis/>> accessed 29 September 2026.

⁵ *Aribam Dhananjay Sharma v State of Manipur* (Manipur HC, order dated 7 July 2023); see also 'Manipur High Court Directs State Govt to Restore Internet Services Partially' (*MediaNama*, 10 July 2023).

⁶ Access Now, 'Emboldened Offenders, Endangered Communities: Internet Shutdowns in 2024' (24 February 2025) <<https://www.accessnow.org/press->

democracy.⁷ Shutdowns have been ordered during communal violence, protests, and even public examinations.

This record coexists with one of the most rights-protective judgments on the subject anywhere. In *Anuradha Bhasin v Union of India*, decided in January 2020 in the aftermath of the communications blackout in Jammu and Kashmir, the Supreme Court held that the freedom of speech and expression, and the freedom to carry on trade or business, through the medium of the internet enjoy constitutional protection under Article 19(1)(a) and 19(1)(g); that restrictions must satisfy the test of proportionality; that suspension orders must be published; and that an indefinite suspension is impermissible.⁸ In the six years since, the legislative ground has shifted beneath the judgment. The Indian Telegraph Act 1885, under which the suspension power had been exercised, has been repealed and replaced by the Telecommunications Act 2023, and the Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules 2017 have been superseded by the Telecommunications (Temporary Suspension of Services) Rules 2024.

The question this article addresses is whether the law, as it now stands, makes internet shutdowns in India lawful in the full sense required by the Constitution and by international human rights law, or merely more orderly. Its argument is that the 2024 Rules are a genuine improvement in form. They require publication, specification of the area and the service suspended, and a finding that no less restrictive alternative is available. But they leave untouched three structural features that allowed Manipur to happen: review of shutdown orders by the executive itself, the absence of any cumulative limit on successive orders, and the absence of any obligation on the State to show that a shutdown actually serves the purpose claimed for it.

The argument is developed with an eye to what has happened since the Rules were notified. The first full year of their operation, 2025, produced fewer shutdowns than any year since 2017, and orders are now published more consistently than before. But the same year saw suspensions in twelve States and Union Territories, imposed during protests, communal violence, conflict and religious events, and a petition challenging the routine use of shutdowns during public examinations, filed in the Supreme Court in 2022, had still not been decided when it was last reported.⁹ Abroad, the ECOWAS Court has moved from holding shutdowns unlawful to awarding compensation for them. The Indian framework has to be assessed against that moving background, and not only against the position as it stood when *Anuradha Bhasin* was decided.

The article proceeds as follows. Part IV defines the practice and distinguishes shutdowns from other forms of online restriction. Part V traces the statutory framework from the Telegraph Act and the Code of Criminal Procedure to the Telecommunications Act 2023 and the 2024 Rules. Part VI analyses *Anuradha Bhasin* and the cases that followed it. Part VII applies the proportionality test to the practice of shutdowns. Part VIII examines how the procedural safeguards have operated in practice. Part IX turns to international human rights law, and Parts X to XII to comparative material from Europe, West Africa and the United States. Part XIII proposes reforms and Part XIV concludes.

A. Research Objectives

This paper has four objectives. The first is to set out accurately the current legal framework governing internet shutdowns in India, following the repeal of the Indian Telegraph Act 1885 and the notification of the 2024 Rules, and to trace how that framework evolved. The second is to identify precisely what the Supreme Court decided in *Anuradha Bhasin* and the related cases, and what it left undecided. The third is to evaluate whether shutdowns as actually imposed in India satisfy the constitutional test of proportionality and the requirements of Article 19(3) of the International Covenant on Civil and Political Rights. The fourth is to draw on comparative and international material to propose reforms that would close the gaps between the law as written and the law as practised.

B. Research Questions

The paper addresses the following research questions: first, what is the legal basis for internet shutdowns in India after the Telecommunications Act 2023, and how does the 2024 Rules framework differ from the 2017 Rules it replaced; secondly, what did *Anuradha Bhasin* hold on the constitutional status of internet-based expression and on the procedural requirements for suspension, and how far have the subsequent cases and the 2024 Rules given effect to those holdings; thirdly, whether internet shutdowns as imposed in India satisfy each stage of the proportionality test and the requirements of legality, necessity and proportionality under Article 19(3) of the ICCPR; and fourthly, what reforms, informed by international standards and comparative experience, would bring the Indian framework into conformity with those requirements.

release/keepit-on-internet-shutdowns-2024-en/> accessed 29 September 2026.

⁷Access Now and #KeepItOn, *Rising Repression Meets Global Resistance: Internet Shutdowns in 2025* (31 March 2026); 'India Records 65 Internet Shutdowns in 2025, Among Top Globally: Report' (*Business Standard*, 31 March 2026).

⁸*Anuradha Bhasin v Union of India* (2020) 3 SCC 637.

⁹Access Now and #KeepItOn (n 7); *Software Freedom Law Center, India v State of Arunachal Pradesh* (SC, order dated 9 September 2022).

C. Research Methodology

The paper adopts a doctrinal and comparative methodology. It analyses the text of section 20 of the Telecommunications Act 2023 and of the 2024 Rules, read against their predecessors under the Indian Telegraph Act 1885, and examines the leading decisions of the Supreme Court and High Courts on the suspension of telecommunication services. It draws on the reports of the Parliamentary Standing Committee on Communications and Information Technology as the most authoritative official account of how the suspension power has operated in practice. Data on the frequency of shutdowns is drawn from the annual reports of Access Now and the #KeepItOn coalition, which remain the most consistent source available in the absence of any official database; its limitations are acknowledged where relevant.

The international and comparative analysis draws on the International Covenant on Civil and Political Rights and the interpretive material of the Human Rights Committee and the Human Rights Council, on the jurisprudence of the European Court of Human Rights and the ECOWAS Community Court of Justice, and on United States constitutional law. This material is used as an analytical aid rather than as a model for direct transplant, because the constitutional structures and security contexts of these jurisdictions differ from India's in important ways.

IV. WHAT IS AN INTERNET SHUTDOWN?

There is no statutory definition of an internet shutdown in Indian law. The most widely used working definition is that adopted by Access Now: an intentional disruption of the internet or electronic communications, rendering them inaccessible or effectively unusable, for a specific population or within a location, often to exert control over the flow of information.¹⁰ The definition has three elements worth drawing out. The disruption is intentional, which distinguishes it from technical failure. It may render communication either inaccessible or effectively unusable, which captures throttling of bandwidth as well as complete suspension. And it is directed at a population or a place, which distinguishes it from the blocking of particular content.

Within that definition, shutdowns take several forms, and the legal analysis differs among them. A complete shutdown suspends all internet access, mobile and fixed-line, within an area. A mobile data shutdown suspends access over mobile networks while leaving broadband connections intact; because the great majority of Indian internet users connect through mobile networks, this is in practice close to a complete shutdown for most people. Bandwidth throttling, such as the restriction of mobile data in Jammu and Kashmir to 2G speeds after services were partially restored in 2020, keeps connectivity nominally available while making most modern applications unusable. Platform-specific restrictions suspend access to particular services, such as messaging applications, while leaving the rest of the internet available.

These forms must be distinguished from the blocking of specific online content under section 69A of the Information Technology Act 2000. Section 69A empowers the Central Government to direct any agency of the Government or intermediary to block public access to specific information generated, transmitted or stored in a computer resource, on grounds that track Article 19(2), subject to the procedure and safeguards in the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules 2009. The Supreme Court upheld section 69A in *Shreya Singhal v Union of India*, relying on its narrow grounds, the requirement of recorded reasons and the procedural safeguards in the Blocking Rules.¹¹ Blocking under section 69A targets identified information. A shutdown targets connectivity itself, and so affects all communication by everyone in the area, lawful and unlawful alike. That difference in reach is central to the proportionality analysis in Part VII.

The scale and distribution of the practice also matter to the legal analysis. Of the 2,102 shutdowns recorded worldwide by the #KeepItOn coalition between 2016 and 2025, 920 were imposed in India.¹² Those figures count orders and not hours or people, and they therefore treat a twelve-hour suspension in a single tehsil and a State-wide suspension lasting months as one event each. They nevertheless show two things. Shutdowns in India are overwhelmingly local, ordered by State authorities for districts or parts of districts, and they are frequent enough to have become an administrative habit and not an exceptional response. Both features bear on proportionality. A measure that is used hundreds of times, by many different authorities, in situations ranging from armed conflict to a recruitment examination, cannot plausibly be described as reserved for cases in which nothing else will serve.

The burden of a shutdown is not evenly spread. A study published in 2023 by Human Rights Watch and the Internet Freedom Foundation documented how suspensions interrupt the delivery of rural employment wages and subsidised food rations, both of which now depend on online authentication and attendance systems, so that the households most dependent on public welfare are the first to lose income when connectivity is withdrawn.¹³ The point is

¹⁰Access Now, '#KeepItOn: Fighting Internet Shutdowns Around the World' <<https://www.accessnow.org/campaign/keepiton/>> accessed 29 September 2026.

¹¹*Shreya Singhal v Union of India* (2015) 5 SCC 1.

¹²Access Now and #KeepItOn (n 7).

¹³Human Rights Watch and Internet Freedom Foundation, '*No Internet Means No Work, No Pay, No Food*': Internet Shutdowns Deny Access to Basic

of constitutional relevance. A restriction whose weight falls most heavily on those least able to bear it, and least able to challenge it, calls for closer scrutiny at the balancing stage and not less.

A shutdown is also, by its nature, a measure directed at future harm. Unlike the blocking of an unlawful post that has already been made, a shutdown is imposed because the authorities anticipate that the internet will be used to organise violence, spread rumours or incite offences. Its justification therefore rests on a prediction, and the quality of that prediction, and of the evidence on which it is based, is the question on which its lawfulness ultimately depends.

V. THE STATUTORY FRAMEWORK: FROM THE TELEGRAPH ACT TO SECTION 20

A. Section 5(2) of the Telegraph Act and Section 144 of the Code of Criminal Procedure

For most of the history of the internet in India, the power to suspend it rested on a provision drafted in 1885 for the telegraph. Section 5(2) of the Indian Telegraph Act permitted the Central or a State Government, on the occurrence of any public emergency or in the interest of the public safety, and if satisfied that it was necessary or expedient in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order or the prevention of incitement to an offence, to direct that any message or class of messages not be transmitted. The Supreme Court had interpreted the threshold conditions in the context of telephone disconnection and interception. In *Hukam Chand Shyam Lal v Union of India* it held that a public emergency within the meaning of section 5 is one that raises problems concerning the interest of the public safety, the sovereignty and integrity of India, the security of the State, friendly relations with foreign States or public order, and that the existence of such an emergency is a precondition to the exercise of the power.¹⁴ In *People's Union for Civil Liberties v Union of India* it held that neither public emergency nor public safety is a secretive condition; each would be apparent to a reasonable person.¹⁵

A further body of case law defines the ground most often invoked, public order. The Supreme Court has long distinguished between law and order, public order and the security of the State, describing them as three concentric circles of which law and order is the widest. An act affects public order only if it disturbs the even tempo of the life of the community, and a disturbance that affects only particular individuals, however serious, remains a matter of law and order.¹⁶ The Court has also required that a restriction imposed in the interests of public order have a proximate and reasonable connection with it, and not a remote, conjectural or far-fetched one.¹⁷ These distinctions were developed in cases on preventive detention and on speech offences, and they were reaffirmed in 2021.¹⁸ They apply with full force to shutdowns, because the statutory grounds for suspension are taken from Article 19(2). A suspension ordered to deal with an ordinary problem of policing, or on the strength of a speculative fear, is outside the power even before the question of proportionality arises.

Until 2017 there were no rules governing the use of section 5(2) to suspend internet services, and in practice shutdowns were more often ordered by District Magistrates under section 144 of the Code of Criminal Procedure 1973, which empowered a magistrate to issue urgent orders in cases of nuisance or apprehended danger. The Gujarat High Court upheld the use of section 144 to suspend mobile internet during the agitation in the State in 2015, in *Gaurav Sureshbhai Vyas v State of Gujarat*, and the Supreme Court declined to interfere.¹⁹ The Parliamentary Standing Committee later observed that, before the 2017 Rules, shutdowns had been ordered under the Code of Criminal Procedure in an arbitrary manner.²⁰ The section 144 route had the serious defect that a single officer could, with minimal procedure and no provision for review, cut off a district's communications.

The repeal of the Code of Criminal Procedure has not removed that route. Section 163 of the Bharatiya Nagarik Suraksha Sanhita 2023, in force from 1 July 2024, reproduces section 144 in substance.²¹ Nothing in the Sanhita or in the Telecommunications Act states in terms that the general power to issue urgent orders may not be used to suspend telecommunication services. The better view is that it may not, on the principle that a special provision excludes a general one: Parliament has enacted a specific power of suspension in section 20, has confined its exercise to the Home Secretary, and has prescribed a procedure of confirmation, publication and review, all of which would be evaded if a District Magistrate could achieve the same result under section 163.

Rights in 'Digital India' (14 June 2023).

¹⁴*Hukam Chand Shyam Lal v Union of India* (1976) 2 SCC 128.

¹⁵*People's Union for Civil Liberties v Union of India* (1997) 1 SCC 301.

¹⁶*Ram Manohar Lohia v State of Bihar* AIR 1966 SC 740.

¹⁷*Superintendent, Central Prison v Ram Manohar Lohia* AIR 1960 SC 633.

¹⁸*Banka Sneha Sheela v State of Telangana* (2021) 9 SCC 415.

¹⁹*Gaurav Sureshbhai Vyas v State of Gujarat* (Gujarat HC, Writ Petition (PIL) No 191 of 2015, 15 September 2015).

²⁰Standing Committee on Communications and Information Technology (2021-22), *Suspension of Telecom Services/Internet and its Impact* (Twenty-Sixth Report, Seventeenth Lok Sabha, 1 December 2021); see PRS Legislative Research, 'Report Summary: Suspension of Telecom Services/Internet and its Impact' <<https://prsindia.org/policy/report-summaries/suspension-of-telecom-services-internet-and-its-impact>> accessed 29 September 2026.

²¹Bharatiya Nagarik Suraksha Sanhita 2023, s 163.

The Standing Committee took the same view of the earlier provisions and recommended that the use of section 144 for this purpose be discontinued.²² The point has not, however, been settled by a binding decision, and its uncertainty is a gap that the legislation of 2023 could have closed and did not.

B. The 2017 Suspension Rules and the 2020 Amendment

In August 2017 the Central Government notified the Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules 2017 under section 7 of the Telegraph Act. The Rules required that directions to suspend telecom services be issued only by the Union Home Secretary or the Home Secretary of a State, save in unavoidable circumstances where an officer of Joint Secretary rank could issue an order subject to confirmation within twenty-four hours; that the order contain reasons; and that it be forwarded to a Review Committee, consisting of senior officials of the executive, which was to meet within five working days to record whether the order was in accordance with section 5(2).²³ The Rules did not require publication of orders, did not limit their duration, and did not empower the Review Committee to set aside an order it found unlawful.

Following *Anuradha Bhasin*, the Rules were amended in November 2020 to provide that a suspension order would not remain in force for more than fifteen days.²⁴ The amendment responded to the Court's holding that an indefinite suspension is impermissible, but it limited the duration only of each order and not of the suspension as a whole. A shutdown could therefore be continued by a series of fresh orders, each of which complied with the fifteen-day limit.

C. Section 20 of the Telecommunications Act 2023 and the 2024 Rules

The Telecommunications Act 2023 repealed the Indian Telegraph Act 1885 and the Indian Wireless Telegraphy Act 1933. Section 20, brought into force on 26 June 2024, reproduces the architecture of section 5 of the Telegraph Act. Section 20(2) provides that on the occurrence of any public emergency, including disaster management, or in the interest of public safety, the Central Government or a State Government, or an officer specially authorised, may, if satisfied that it is necessary or expedient in the interest of the sovereignty and integrity of India, defence and security of the State, friendly relations with foreign States, public order, or for preventing incitement to the commission of any offence, by order direct under clause (b) the suspension of any telecommunication service or class of telecommunication services.²⁵ The grounds remain those of the Telegraph Act, which themselves track Article 19(2). The statute does not define public emergency or public safety, so the interpretation given to those expressions in *Hukam Chand* and *PUCL* continues to govern.

Three features of the drafting of section 20 deserve comment. The first is its breadth of object. The power extends to any telecommunication service or class of telecommunication services, and telecommunication is defined in wide terms as the transmission, emission or reception of messages by wire, radio, optical or other electro-magnetic systems. The provision therefore authorises the suspension of voice calls and text messages as readily as mobile data, and it draws no distinction between suspending a service and degrading it. The second is the identity of the decision-maker. The statute confers the power on the Central Government, a State Government or any officer specially authorised by either, and leaves it to the Rules to say who that officer shall be. The third, and the most significant, is what the statute omits. Section 20 says nothing about the duration of a suspension, the publication of orders, the giving of reasons or the review of decisions. Every safeguard that now exists is found in delegated legislation, which the executive may amend without reference to Parliament, as it did in 2017, 2020 and 2024. A power that restricts fundamental rights on this scale would ordinarily be expected to carry its principal safeguards on the face of the statute.

The Telecommunications (Temporary Suspension of Services) Rules 2024 were notified on 22 November 2024 and supersede the 2017 Rules.²⁶ They retain the basic structure of the earlier regime: orders by the Union or State Home Secretary, with a Joint Secretary-level exception subject to confirmation within twenty-four hours; a Review Committee of executive officials; and a fifteen-day limit on each order. But they make several changes that respond directly to *Anuradha Bhasin*. Every suspension order must be published. The order must specify the geographical area and the type of telecommunication service being suspended. The competent authority may not issue an order unless it has considered whether the objectives in section 20(2) can be achieved by any other reasonable alternative means and concluded that they cannot, a requirement that makes suspension, at least on paper, a measure of last resort. And the Review Committee, which under the 2017 Rules could only record its findings, now has the power to set aside an order that does not conform to

²²Standing Committee, Twenty-Sixth Report (n 20).

²³Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules 2017, r 2.

²⁴Temporary Suspension of Telecom Services (Amendment) Rules 2020; see Standing Committee, Twenty-Sixth Report (n 20).

²⁵Telecommunications Act 2023, s 20(2)(b); see Internet Freedom Foundation, 'A Draft to Disconnect: IFF's Analysis of the Draft Telecom Suspension Rules, 2024' (3 September 2024) <<https://internetfreedom.in/telecom-suspension-rules-2024-analysis/>> accessed 29 September 2026.

²⁶Telecommunications (Temporary Suspension of Services) Rules 2024, notified 22 November 2024; see Internet Freedom Foundation, 'First Read on Telecommunications (Temporary Suspension of Services) Rules, 2024' (4 December 2024) <<https://internetfreedom.in/first-read-telecom-suspension-rules-2024/>> accessed 29 September 2026.

the statute.²⁷

The operational provisions of the Rules repay attention, because they show how a suspension actually happens. An order made by the competent authority must be forwarded to the Review Committee within twenty-four hours. Each authorised telecommunication entity must designate a nodal officer for every service area, State or Union Territory to receive and implement suspension orders, and an order must be communicated to that nodal officer electronically by an officer not below the rank of Superintendent of Police.²⁸ The Review Committee is to meet within five days of the issue of the order and record its findings on whether the order accords with section 20. The draft Rules published for consultation in August 2024 had expressed both the fifteen-day limit and the five-day period for review in calendar days. The notified Rules dropped that specification, which leaves room for the argument that the periods are to be counted in working days and so lengthens both the permissible suspension and the interval before review.²⁹ The change is small on paper. For a population without connectivity, the difference between fifteen calendar days and fifteen working days is the better part of a week.

These are real improvements, and they deserve credit. The requirement of specificity as to area and service is particularly important, because it forces the authority to confront the question of scope: whether the whole State or a single district, whether all services or only mobile data. Early practice under the 2024 Rules suggests that orders now more often cite the specific rule invoked, identify the area by reference to particular localities or cell towers, and distinguish between 2G and high-speed data.³⁰ But the Rules also leave significant gaps, which Part VIII examines. The Review Committee remains composed entirely of executive officials. The fifteen-day limit still applies to each order rather than to the suspension as a whole. The Rules do not require publication of the Review Committee's decisions, nor do they specify how orders are to be published. And they provide no mechanism by which affected persons may be heard.

VI. ANURADHA BHASIN AND AFTER: WHAT THE COURTS HAVE DECIDED

A. *Anuradha Bhasin v Union of India*

On 4 and 5 August 2019, in anticipation of the constitutional changes affecting Jammu and Kashmir, the authorities suspended mobile, landline and internet services across the region and imposed restrictions on movement under section 144 of the Code of Criminal Procedure. Anuradha Bhasin, executive editor of the *Kashmir Times*, challenged the restrictions on the ground that they prevented her newspaper from being printed and distributed; the petition was heard together with one filed by Ghulam Nabi Azad challenging the restrictions on movement and communication.³¹ The Court's judgment, delivered on 10 January 2020, is frequently described as having declared access to the internet a fundamental right. It did not, and the precision matters.

What the Court held is that the freedom of speech and expression under Article 19(1)(a), and the freedom to practise any profession or carry on any trade, business or occupation under Article 19(1)(g), enjoy constitutional protection when exercised through the medium of the internet. The internet is a medium through which protected freedoms are exercised, and restrictions on that medium must therefore satisfy the requirements of Article 19(2) and Article 19(6). The Court expressly noted that none of the counsel had argued for recognising a free-standing right of access to the internet, and it declined to express a view on that question. The distinction has practical consequences. A free-standing right would be engaged by any denial of access; the right the Court recognised is engaged because, and to the extent that, a restriction on access restricts expression or trade.

On that foundation, the Court laid down several propositions governing the suspension power. It held that restrictions must satisfy the doctrine of proportionality, and that an order suspending internet services indefinitely is impermissible; suspension can be resorted to only temporarily. It held that the 2017 Rules, which did not in terms require publication, must be read to require that orders be made available through a suitable mechanism, so that affected persons can challenge them.³² It held that the Review Committee must examine not only whether an order complies with section 5(2) but also whether it is proportionate, and that it must conduct a periodic review within seven working days of the previous review.³³ And it held that the power under section 144 cannot be used to suppress the legitimate expression of opinion or grievance or the exercise of democratic rights, and that orders under

²⁷*ibid*.

²⁸ Telecommunications (Temporary Suspension of Services) Rules 2024, rr 3-5; see 'Ministry of Communications Notifies Telecommunications (Temporary Suspension of Services) Rules, 2024' (*SCC Times*) <<https://www.sconline.com/blog/?p=335910>> accessed 6 October 2026.

²⁹ Internet Freedom Foundation (n 26).

³⁰ SFLC.in, 'Telecom Suspension Rules, 2024: New Language, Same Shutdowns?' (6 June 2025) <<https://sflc.in/telecom-suspension-rules-2024/>> accessed 29 September 2026.

³¹ *Anuradha Bhasin* (n 8).

³² *Anuradha Bhasin* (n 8) paras 104-105.

³³ *Anuradha Bhasin* (n 8) para 108.

that provision must state material facts enabling judicial review.

Three further aspects of the judgment are less often noticed. The first concerns disclosure. The State had initially resisted producing the orders under challenge, citing difficulty in doing so. The Court held that the State is obliged to place the orders before the court, and that a claim of privilege over any part of them must be made specifically and justified. A citizen cannot challenge an order that he is not allowed to see. The second concerns evidence of harm. The petitioners argued that the restrictions had a chilling effect on the press, and the Court declined to act on that argument in the absence of evidence that publication had in fact been deterred, while reminding the authorities of the importance of a free press. The third concerns relief. Although the Court did not set aside any order, it directed the authorities to consider forthwith allowing access to government websites, localised or limited e-banking facilities, hospital services and other essential services in areas where internet services were not likely to be restored immediately.³⁴ That direction is an early recognition, by the Court itself, that a total suspension is not the only form the measure can take, and it anticipates the less restrictive alternatives discussed in Part VII.

The judgment has also attracted serious criticism for what it did not do. Having set out these principles, the Court did not examine the specific orders itself or set any of them aside. It directed the authorities to publish the orders and to review them in accordance with the principles laid down, leaving the restrictions in place in the meantime. The result was that a judgment which articulated demanding standards produced little immediate relief for those it concerned. The standards themselves were significant, but their enforcement was delegated to the executive whose orders were under challenge.

B. Foundation for Media Professionals and the Special Committee

The pattern repeated itself in *Foundation for Media Professionals v Union Territory of Jammu and Kashmir*. After *Anuradha Bhasin*, mobile internet in Jammu and Kashmir was restored only at 2G speed. During the first months of the COVID-19 pandemic, petitioners sought restoration of 4G services on the ground that the restriction obstructed access to health information, telemedicine and online education. The Court accepted that the orders did not state reasons for the blanket restriction across all districts and that the petition would in normal circumstances merit consideration, but held that the compelling circumstances of cross-border terrorism prevented it from finding a violation. Instead of deciding the question, it directed the constitution of a Special Committee, chaired by the Union Home Secretary, to examine the necessity of the restrictions.³⁵ High-speed mobile internet was restored across the Union Territory only in February 2021.

The litigation has continued. In 2024, in miscellaneous proceedings in the same case, the Supreme Court held that although the deliberations of the Review Committee need not be published, its final orders must be.³⁶ The clarification is useful, but it also illustrates how much of the enforcement of *Anuradha Bhasin* has depended on repeated applications to the Supreme Court, four years after the judgment, to secure compliance with requirements the Court had already laid down.

C. The Right to Access the Internet in Faheema Shirin

The High Courts have in some respects gone further than the Supreme Court. In *Faheema Shirin R.K. v State of Kerala*, a student was expelled from her college hostel after refusing to comply with restrictions on the use of mobile phones during specified hours. The Kerala High Court held that the right to access the internet is part of the right to education and the right to privacy under Article 21, and set aside the expulsion.³⁷ The case did not concern a State-imposed shutdown, and its reasoning was directed at an institutional rule rather than an exercise of the statutory suspension power. But it is significant as the first Indian decision to describe access to the internet itself, rather than expression through it, as protected, and it anticipated the reasoning later adopted in comparative jurisprudence discussed in Part XI.

D. Manipur and the High Courts

The Manipur litigation of 2023 shows both the possibilities and the limits of judicial supervision. Petitions challenging the State-wide shutdown were filed in the Supreme Court, which declined to hear them urgently, and in the Manipur High Court. Over successive hearings, the High Court required the State to explain the basis for the continued suspension, constituted an expert committee to examine technical alternatives, and on 7 July 2023 directed the State to restore internet access through leased lines and fibre connections, and to consider restoring access to whitelisted mobile numbers, subject to

³⁴*Anuradha Bhasin* (n 8).

³⁵*Foundation for Media Professionals v Union Territory of Jammu and Kashmir* (2020) 5 SCC 746.

³⁶*Foundation for Media Professionals v Union Territory of Jammu and Kashmir* (SC, Misc Application No 1086 of 2020, order dated 23 February 2024) para 8.

³⁷*Faheema Shirin R.K. v State of Kerala* 2019 SCC OnLine Ker 2976.

safeguards.³⁸ The High Court did not declare the shutdown unconstitutional. It proceeded instead by requiring the State to consider less restrictive alternatives and by using the evidence of internet service providers to show that such alternatives were technically feasible. That approach is, in effect, an application of the necessity stage of the proportionality test, and it is the model the next Part develops.

Other High Courts have intervened in comparable ways. In December 2019, during the protests in Assam against the Citizenship (Amendment) Act, the Gauhati High Court found that the State had placed no material before it to justify the continued suspension of mobile internet after the situation had eased, and directed that services be restored.³⁹ In March 2022 the Calcutta High Court stayed orders issued under section 144 of the Code of Criminal Procedure suspending internet services in several districts of West Bengal during school examinations, taking the view that the orders did not disclose reasons sufficient to justify so wide a measure.⁴⁰ These decisions share three characteristics. Each was given quickly, while the shutdown was in force. Each turned on the absence of material justifying the order, and not on a general pronouncement about the right. And each was made by a High Court exercising jurisdiction under Article 226, close to the facts.

The Supreme Court's own record on examination shutdowns is one of delay. A petition filed by the Software Freedom Law Center, India, challenging the practice of suspending the internet to prevent cheating in examinations in Arunachal Pradesh, Rajasthan, Gujarat, West Bengal and Assam, was entertained in September 2022, when the Court asked the Union Government to explain what standard protocol existed and how far the States complied with it. The petition was still being adjourned in 2025.⁴¹ The contrast with the High Court decisions is instructive. Urgent relief against a shutdown is, by the nature of the measure, relief that must be given within days. A forum that takes years to decide whether examination shutdowns are lawful is, for practical purposes, not deciding it.

VII. PROPORTIONALITY APPLIED: CAN A SHUTDOWN SATISFY THE TEST?

Indian constitutional law now applies a structured test of proportionality to restrictions on fundamental rights. In *Modern Dental College and Research Centre v State of Madhya Pradesh*, the Supreme Court set out four components: the measure must pursue a legitimate aim; it must be rationally connected to that aim; there must be no alternative measure that would achieve the aim to a similar extent with a lesser degree of restriction; and there must be a proper relation between the importance of the aim and the harm caused to the right.⁴² The test was affirmed in *Justice K.S. Puttaswamy (Retd) v Union of India*, and *Anuradha Bhasin* applied it expressly to internet restrictions.⁴³ Applying each stage to the practice of shutdowns shows where the difficulty lies.

A preliminary question is who must satisfy the test. Once a restriction on a fundamental right is shown, the burden of justifying it lies on the State, and *Anuradha Bhasin* confirms that the degree and scope of a restriction on communication must be justified by reference to the necessity said to require it. The State cannot discharge that burden by invoking a protected interest in general terms. In *Madhyamam Broadcasting Ltd v Union of India* the Supreme Court held that national security is not a phrase whose mere utterance places executive action beyond scrutiny, that the State must show that the considerations it relies on are genuinely engaged, and that the material said to support them must be capable of being tested.⁴⁴ That reasoning was given in the context of a refusal to renew a broadcasting licence. It applies equally to an order suspending the communications of a district.

A. Legitimate Aim

The first stage is rarely in doubt. Preventing violence, protecting public order and preventing incitement to offences are legitimate aims, and they correspond to grounds recognised by Article 19(2) and by section 20(2) of the Telecommunications Act. The difficulty arises when the aim stated in an order is broader than those grounds. Shutdowns imposed during public examinations to prevent cheating are the clearest example. Preventing malpractice in examinations is a legitimate objective, but it is difficult to fit within public order, the security of the State or incitement to an offence in the sense those expressions bear in Article 19(2). A shutdown ordered for that purpose risks failing at the first stage, and certainly fails at the fourth, because it suspends the communications of an entire population to prevent the misconduct of a small number of candidates.

³⁸ *Aribam Dhananjoy Sharma* (n 5).

³⁹ *Banashree Gogoi v Union of India* (Gauhati HC, PIL No 78 of 2019, order dated 19 December 2019).

⁴⁰ *Ashlesh Biradar v State of West Bengal* (Calcutta HC, WPA(P) No 104 of 2022, order dated 10 March 2022).

⁴¹ *Software Freedom Law Center, India* (n 9); see 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/>> accessed 6 October 2026.

⁴² *Modern Dental College and Research Centre v State of Madhya Pradesh* (2016) 7 SCC 353.

⁴³ *Justice K.S. Puttaswamy (Retd) v Union of India* (2017) 10 SCC 1; *Anuradha Bhasin* (n 8).

⁴⁴ *Madhyamam Broadcasting Ltd v Union of India* (2023) 13 SCC 401.

A related difficulty concerns the proximity of the threat to the ground invoked. Indian free speech law distinguishes between discussion and advocacy on the one hand and incitement on the other, and permits restriction only of the last.⁴⁵ A shutdown does not observe that distinction, and cannot. It is imposed before anything has been said, on the footing that some of what will be said may amount to incitement or may provoke disorder. That is permissible, if at all, only where the apprehended disorder is close at hand and the link between online communication and that disorder is real. The requirement of a proximate connection with public order, noted in Part V, therefore operates at this first stage as a filter. An order that recites a general apprehension of rumours, without identifying what is apprehended and why, has not shown that it pursues a constitutionally recognised aim at all.

B. Rational Connection

The second stage asks whether the measure actually advances the aim. This is the stage at which the case for shutdowns is weakest and least examined. The assumption underlying most orders is that suspending the internet prevents the spread of rumours and the organisation of violence. But rumours spread by word of mouth, by telephone and by text message, and the people most determined to organise violence are also the most likely to use alternative channels, including virtual private networks where connectivity is partial. Meanwhile, a shutdown prevents the authorities themselves, the press and ordinary residents from countering false information. Whether a shutdown on balance reduces violence is an empirical question, and the answer may differ from case to case. The problem is that the legal framework does not require the question to be answered. Neither section 20 nor the 2024 Rules require the authority to produce any evidence that shutdowns have been effective in comparable situations, or to record after the event whether the stated aim was achieved. The Standing Committee found that neither the Department of Telecommunications nor the Ministry of Home Affairs maintained even a record of the shutdowns ordered by States, let alone an assessment of their effects.⁴⁶ A measure whose effectiveness is never measured cannot readily be shown to be rationally connected to its aim.

Such empirical work as exists does not support the assumption. A study of protest events in India over the course of a year found that shutdowns were associated with an increase in violent collective action and not with a decrease, and suggested an explanation: the loss of communication disrupts the coordination on which organised, non-violent protest depends, while leaving spontaneous and violent mobilisation largely unaffected.⁴⁷ A single study cannot settle the matter, and its author did not claim that it did. Its significance for the legal argument is different. It shows that the question is capable of being investigated, that the answer is not obvious, and that the State, which alone holds the relevant records of orders and incidents, has not attempted to investigate it. Where the party bearing the burden of justification possesses the means of proof and declines to use them, a court is entitled to draw the inference that the proof would not assist it.

C. Necessity and Less Restrictive Alternatives

The third stage is where the 2024 Rules make their most important advance, by requiring the authority to consider whether the objective can be achieved by other reasonable means before ordering a suspension. The alternatives are real. Content-specific blocking under section 69A is available for particular unlawful material. Platform-specific restrictions may address the use of a particular messaging service for coordination without cutting off banking, education and health services. Geographic limitation to the precise localities affected, rather than whole districts or States, reduces the number of people affected by orders of magnitude. And the Manipur experience shows that whitelisting of particular connections, and the preservation of fixed-line access for institutions and businesses, can maintain essential services during a period of genuine risk.

The technical feasibility of these alternatives is no longer open to serious doubt. The partial restoration in Jammu and Kashmir in early 2020 proceeded by permitting access to a list of approved websites, and the Manipur High Court's directions of July 2023 rested on the evidence of service providers that fixed-line and leased-line connections could be restored, and particular mobile numbers permitted, without reopening the network generally.⁴⁸ Each of these methods has costs of its own. A whitelist of approved sites is itself a form of prior restraint, and the selection of permitted users invites favouritism. They are mentioned here as measures less restrictive than a total suspension, and not as measures free from constitutional difficulty. What they establish is that the choice before the authority is never simply between a complete shutdown and nothing.

The difficulty is that the Rules require the authority to consider alternatives, but not to record what alternatives were considered or why they were rejected, and not to publish that reasoning. A statement in the order that no alternative means are available is easy to make and hard to test. The necessity requirement will have practical force only if the authority is required to identify the alternatives examined and the reasons for rejecting each, and if a

⁴⁵Shreya Singhal (n 11).

⁴⁶Standing Committee, Twenty-Sixth Report (n 20).

⁴⁷Jan Rydzak, 'Of Blackouts and Bandhs: The Strategy and Structure of Disconnected Protest in India' (Working Paper, Stanford Global Digital Policy Incubator, 2019).

⁴⁸Aribam Dhananjoy Sharma (n 5).

reviewing body independent of the authority can evaluate that reasoning.

D. Balancing

The fourth stage weighs the benefit of the measure against the harm to the right. The harm of a shutdown is broad and falls on people who have done nothing wrong. It affects the ability to work, to trade, to receive wages and welfare payments, to attend online classes, to consult doctors, to report and receive news, and to reach family in an emergency. The Standing Committee recognised that shutdowns affect the life and liberty of people and impose a heavy cost on the economy.⁴⁹ Estimates of the economic cost vary with methodology, but the figures cited in submissions to and by the Committee run into billions of dollars for 2020 alone, the year of the prolonged restrictions in Jammu and Kashmir.⁵⁰ The harm also falls unequally. Those who rely only on mobile internet, which in India is the great majority, lose access entirely; those with fixed broadband or the means to travel do not.

The economic literature, though it varies in method, points consistently in one direction. A study by the Indian Council for Research on International Economic Relations estimated that shutdowns between 2012 and 2017 cost the Indian economy in the region of three billion dollars, with mobile shutdowns accounting for the greater part of the loss.⁵¹ Figures of this kind are necessarily approximate, and they capture only measurable output. They do not capture the missed medical consultation, the examination form not submitted, or the family unable to learn whether a relative is safe. The fourth stage of the proportionality test requires those costs to be weighed, and an authority that has made no attempt to estimate them cannot claim to have weighed them.

Against that harm, the benefit is by hypothesis uncertain, because it depends on the prevention of events that would otherwise have occurred. The balance may nonetheless favour a short, geographically precise suspension in the face of a specific and imminent threat, such as coordinated violence known to be organised through a particular channel in a particular area. It is very difficult to see how it can favour a State-wide suspension extended over months, as in Manipur, or the blanket restriction of an entire region for a year and a half, as in Jammu and Kashmir. The proportionality test does not prohibit shutdowns absolutely. It does require that the most extensive of them be justified by the most compelling evidence, and it is precisely that evidence which the present framework does not require the State to produce.

VIII. PROCEDURAL SAFEGUARDS IN PRACTICE

The procedural safeguards in the Rules are meant to ensure that the substantive standards are observed. Three features of their design limit their effectiveness.

The first is the composition of the Review Committee. Under both the 2017 and 2024 Rules, the committee that reviews a suspension order consists of senior officials of the same executive government that issued it: at the Central level, the Cabinet Secretary with the Secretaries for Legal Affairs and Telecommunications, and at the State level, the Chief Secretary with the Secretary for Law and another Secretary. The Standing Committee recommended that the Review Committee include non-official members such as retired judges and members of the public, so that review would be more than the government checking its own decisions.⁵² The 2024 Rules did not adopt that recommendation. The new power to set aside orders is significant, but its exercise depends on officials concluding that their own government has acted unlawfully.

The second is the timing of review. The Review Committee is required to meet within five working days of an order. Many suspension orders are of short duration, often one to three days, so that the suspension may have ended before review occurs. For longer shutdowns, the fifteen-day limit on each order, combined with the absence of any cumulative limit, means that a suspension can be continued indefinitely by successive orders, each reviewed separately and each individually lawful. That is what happened in Manipur, where the State-wide suspension was extended by fresh orders roughly every five days.⁵³ *Anuradha Bhasin's* holding that indefinite suspension is impermissible is satisfied at the level of each order and defeated at the level of the shutdown.

The third is transparency. The 2024 Rules require publication of suspension orders, which codifies *Anuradha Bhasin*. They do not specify the mode of

⁴⁹Standing Committee, Twenty-Sixth Report (n 20).

⁵⁰Internet Freedom Foundation, 'IFF Wrote to the MHA and the DoT Seeking Implementation of the Recommendations Made on Internet Shutdowns by the Standing Committee' <<https://internetfreedom.in/shutdowns-report-dot-mha/>> accessed 29 September 2026, citing an estimate of 8,927 hours of shutdowns in 2020 at a cost of US\$2.8 billion.

⁵¹Rajat Kathuria and others, *The Anatomy of an Internet Blackout: Measuring the Economic Impact of Internet Shutdowns in India* (Indian Council for Research on International Economic Relations 2018).

⁵²Standing Committee, Twenty-Sixth Report (n 20); Internet Freedom Foundation (n 26).

⁵³SFLC.in (n 4).

publication, and they do not require publication of Review Committee orders, which the Supreme Court held in 2024 must be published.⁵⁴ Nor is there any central repository of orders. The Standing Committee recommended that a central database of shutdowns be maintained, comparable to the records maintained by the National Crime Records Bureau, and in its action-taken report expressed disappointment that most of its recommendations had not been implemented.⁵⁵ In the absence of official data, public knowledge of how often and for how long shutdowns occur depends on the work of civil society trackers.

To these three may be added a fourth gap: the absence of any hearing for those affected. Shutdowns are ordered *ex parte*, which may be justified by urgency, but the review process also makes no provision for affected persons to be heard, even after the event. The only route for challenge is a writ petition to a High Court or the Supreme Court, which is costly, slow relative to the duration of most orders, and, as the Supreme Court's refusal to hear the Manipur petitions urgently shows, not always available when it is needed.

A fifth weakness arises from the federal structure. Telecommunication is a subject of exclusive Union competence, and the suspension power is conferred by a Union statute. Public order and police are State subjects.⁵⁶ The result is that a power created by Parliament is exercised in the great majority of cases by State Home Secretaries, for purposes that fall within State responsibility, and is reviewed by a committee of State officials. The Union Government, when asked by the Standing Committee why it kept no record of shutdowns, answered in substance that the matter was one for the States.⁵⁷ No authority at the Union level receives the orders, examines whether the Rules are being followed, or can correct a State that misuses the power. The framework is thus national in form and entirely local in operation, and the absence of any central oversight is one reason why the practice differs so widely from one State to another.

Finally, it should be recorded that compliance with the publication requirement has improved. Access Now's report for 2025 notes that India is unusual among States that impose shutdowns in requiring by law that the orders be published.⁵⁸ That is a real distinction, and it is the direct result of *Anuradha Bhasin*. Its value should not be overstated. Publication after the event allows a shutdown to be recorded and criticised. It does not, by itself, allow it to be prevented or shortened, and an order that is published on the website of a Home Department without notice to anyone, after the suspension has already begun, will reach the courts, if at all, only when the suspension is over.

IX. INTERNATIONAL HUMAN RIGHTS LAW

Article 19 of the Universal Declaration of Human Rights proclaims the right to freedom of opinion and expression, including the freedom to seek, receive and impart information and ideas through any media and regardless of frontiers. The Declaration is not itself a treaty, but India is a party to the International Covenant on Civil and Political Rights, which it acceded to in 1979. Article 19(2) of the Covenant protects the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, through any media of one's choice. Article 19(3) permits restrictions only if they are provided by law and are necessary for respect of the rights or reputations of others or for the protection of national security, public order, or public health or morals.⁵⁹

The Human Rights Committee's General Comment No 34 interprets these requirements in terms directly applicable to shutdowns. It emphasises that restrictions must conform to the strict tests of necessity and proportionality, must be the least intrusive instrument that might achieve the protective function, and must be proportionate to the interest to be protected. It states that generic bans on the operation of certain sites and systems are not compatible with Article 19(3).⁶⁰ If a generic ban on particular sites is incompatible with the Covenant, a shutdown of all sites for an entire population is harder still to justify.

The United Nations special procedures reached the same conclusion at an early stage. In his report to the Human Rights Council in 2011, the Special Rapporteur on freedom of opinion and expression stated that cutting off users from internet access, regardless of the justification provided, is disproportionate and thus a violation of Article 19(3), and called on States to ensure that access is maintained at all times, including during periods of

⁵⁴Foundation for Media Professionals (2024) (n 36).

⁵⁵Standing Committee on Communications and Information Technology, *Suspension of Telecom Services/Internet and its Impact: Action Taken by the Government* (tabled 9 February 2023); see Internet Freedom Foundation, 'Standing Committee on IT Highlights Lack of Action Taken by the Government' (28 February 2023) <<https://internetfreedom.in/standing-committee-action-taken-report/>> accessed 29 September 2026.

⁵⁶Constitution of India, Seventh Schedule, List I, entry 31; List II, entries 1 and 2.

⁵⁷Standing Committee, Twenty-Sixth Report (n 20).

⁵⁸Access Now and #KeepItOn (n 7).

⁵⁹International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 19.

⁶⁰Human Rights Committee, 'General Comment No 34: Article 19: Freedoms of Opinion and Expression' (12 September 2011) UN Doc CCPR/C/GC/34, paras 33-35 and 43.

political unrest.⁶¹ The Human Rights Committee has since addressed the matter in the context of assemblies. Its General Comment No 37 on Article 21 of the Covenant provides that States parties must not block or hinder internet connectivity in relation to peaceful assemblies, and that the same applies to geo-targeted or technology-specific interference with connectivity.⁶² The Human Rights Council returned to the subject in 2021, again condemning the use of shutdowns to prevent or disrupt access to information online.⁶³

The Human Rights Council has addressed shutdowns expressly. Its resolution 32/13 of 2016 unequivocally condemned measures intended to prevent or disrupt access to or dissemination of information online in violation of international human rights law, and called on all States to refrain from such measures.⁶⁴ In 2022 the Office of the High Commissioner for Human Rights reported to the Council on the trends, causes and legal implications of shutdowns, concluding that blanket shutdowns are very unlikely to satisfy the requirements of necessity and proportionality, and recommending that States refrain from imposing them.⁶⁵ Earlier, the special mandate-holders on freedom of expression of the United Nations and regional organisations declared jointly in 2015 that the use of communications kill switches, meaning the shutting down of entire parts of communications systems, can never be justified under human rights law.⁶⁶

Two points follow for India. First, the Covenant's standard of necessity is at least as demanding as the proportionality test in Indian constitutional law, and in the requirement of the least intrusive means it is materially identical to the third stage of *Modern Dental College*. The international material therefore does not import a foreign standard; it reinforces the one Indian law has already adopted. Secondly, the interpretive material consistently treats blanket and prolonged shutdowns as presumptively incompatible with the Covenant. On that view, the problem with the Indian framework is not that it permits shutdowns in extreme and narrowly defined circumstances, but that it imposes no structural limit that would confine them to such circumstances.

Two qualifications should be made. The first concerns India's own position under the Covenant. On acceding in 1979, India declared that Article 19(3), together with Articles 12, 21 and 22, would be applied so as to be in conformity with Article 19 of the Constitution.⁶⁷ That declaration does not weaken the argument made here. Its effect is to align India's international obligation with the constitutional standard, and since *Anuradha Bhasin* the constitutional standard is proportionality. The second concerns emergencies. Article 4 of the Covenant permits a State to derogate from certain obligations, including Article 19, in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, to the extent strictly required by the exigencies of the situation. India has not invoked Article 4 in respect of any shutdown. The expression public emergency in section 20 of the Telecommunications Act describes something far more modest than an emergency threatening the life of the nation, and the ordinary standards of Article 19(3) therefore apply to every Indian shutdown in full.

The domestic relevance of this material is well established. Article 51(c) of the Constitution directs the State to foster respect for international law and treaty obligations, and the Supreme Court has held that international conventions consistent with the fundamental rights may be read into them to enlarge their meaning and content.⁶⁸ The Court relied on the Covenant and on comparative material in *Anuradha Bhasin* itself. International human rights law is therefore not an external yardstick against which Indian law happens to fall short. It is an accepted source for the interpretation of the very provisions on which the validity of a shutdown depends.

X. COMPARATIVE ANCHOR I: THE EUROPEAN COURT OF HUMAN RIGHTS

The European Court of Human Rights has not yet decided a case concerning a complete internet shutdown of the kind common in India, but its jurisprudence on blocking has established principles that bear directly on the question. In *Ahmet Yıldırım v Turkey*, a Turkish court had ordered the blocking of all of Google Sites in order to block a single website hosted on the platform that was alleged to insult the memory of Atatürk. The applicant's own unrelated site was blocked as a result. The Court held that the measure violated Article 10 of the Convention because it was not prescribed by a law with sufficient safeguards against arbitrary and excessive effects; the domestic law did not require the court to consider whether a less far-reaching

⁶¹Human Rights Council, 'Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Frank La Rue' (16 May 2011) UN Doc A/HRC/17/27, paras 78-79.

⁶²Human Rights Committee, 'General Comment No 37: Article 21: Right of Peaceful Assembly' (17 September 2020) UN Doc CCPR/C/GC/37, para 34.

⁶³Human Rights Council, 'The Promotion, Protection and Enjoyment of Human Rights on the Internet' (13 July 2021) UN Doc A/HRC/RES/47/16.

⁶⁴Human Rights Council, 'The Promotion, Protection and Enjoyment of Human Rights on the Internet' (18 July 2016) UN Doc A/HRC/RES/32/13.

⁶⁵Office of the United Nations High Commissioner for Human Rights, 'Internet Shutdowns: Trends, Causes, Legal Implications and Impacts on a Range of Human Rights' (13 May 2022) UN Doc A/HRC/50/55.

⁶⁶UN Special Rapporteur on Freedom of Opinion and Expression, OSCE Representative on Freedom of the Media, OAS Special Rapporteur on Freedom of Expression and ACHPR Special Rapporteur on Freedom of Expression and Access to Information, 'Joint Declaration on Freedom of Expression and Responses to Conflict Situations' (4 May 2015).

⁶⁷International Covenant on Civil and Political Rights (n 59), declarations made by India upon accession (10 April 1979); art 4.

⁶⁸Constitution of India, art 51(c); *Vishaka v State of Rajasthan* (1997) 6 SCC 241.

measure could have been taken, or to weigh the interests of the many users affected.⁶⁹

The Court developed that reasoning in *Vladimir Kharitonov v Russia*, where the applicant's website was blocked because it shared an IP address with a site the authorities had targeted. The Court held that collateral blocking of lawful content, without a legal framework requiring the authorities to assess the impact on third parties and to avoid unnecessary interference, violated Article 10.⁷⁰

Two further decisions fill out the picture. In *Cengiz v Turkey* the Court held that the wholesale blocking of YouTube for over two years violated Article 10, and it accepted that ordinary users of the platform, who were neither its operators nor the authors of the offending content, could claim to be victims of the measure because it deprived them of a significant means of receiving and imparting information.⁷¹ In *Kalda v Estonia* the Court found a violation where a prisoner was denied access to certain websites containing legal information, observing that an increasing amount of services and information is available only on the internet.⁷² The first case establishes that the passive user has standing to complain of a restriction directed at a platform. The second shows that the Court treats access to online information as part of the right to receive information even where the State has strong reasons, in that case the security of a prison, for controlling it. Taken with *Yıldırım* and *Kharitonov*, they leave little doubt as to how a complete shutdown affecting an entire region would be approached.

The relevance of these cases to India lies in the concept of collateral effect. The European Court treats the interference with the rights of persons who are not the target of a restriction as a central element of the proportionality inquiry, and it requires the law itself, not merely the decision-maker's discretion, to guard against disproportionate collateral effects. A shutdown is the most extreme form of collateral restriction, since it affects every user in the area for the sake of preventing the conduct of a few. On the European approach, a legal framework that permits such a measure without requiring the decision-maker to assess and minimise its effect on uninvolved users would fail the quality-of-law requirement before the question of proportionality on the facts even arises.

XI. COMPARATIVE ANCHOR II: THE ECOWAS COURT AND WEST AFRICA

The most directly relevant comparative decisions come from the Community Court of Justice of the Economic Community of West African States. In *Amnesty International Togo v Togolese Republic*, the applicants challenged the suspension of internet services during protests in Togo in September 2017. The Court held that access to the internet, while not in itself a fundamental right, is a derivative right, because it enhances the exercise of the right to freedom of expression, and is therefore a right that requires the protection of the law. Because there was no national legislation authorising the restriction of freedom of expression through an internet shutdown, the Court held that the suspension violated the applicants' right to freedom of expression, and it ordered the State to take measures to ensure that the violation was not repeated.⁷³

In *SERAP v Federal Republic of Nigeria*, the Court considered Nigeria's suspension of Twitter in 2021, which the government justified on the ground that the platform's operations threatened national stability. The Court held that the suspension violated the rights to freedom of expression, access to information and the media.⁷⁴

The Court's most recent decision goes further in two respects. In *ASUTIC v Republic of Senegal*, decided in May 2025, the applicants challenged the suspension of mobile internet and social media in June and July 2023 during unrest following the conviction and arrest of an opposition leader. Senegal defended the measures on grounds of public order and national security. The Court held that the shutdowns were not based on clear legal grounds and did not satisfy the requirements of legitimacy and proportionality, and that they violated the rights to freedom of expression and access to information. It also upheld the claim of the individual applicant, an information technology consultant, that the shutdown had violated his right to work, awarded compensation to both applicants, and ordered the State to refrain from imposing unlawful or arbitrary restrictions in future.⁷⁵ The recognition of the right to work is significant for India, where *Anuradha Bhasin* placed trade and business through the internet under Article 19(1)(g) but where no court has yet awarded compensation for the loss caused by an unlawful suspension.

⁶⁹ *Ahmet Yıldırım v Turkey* App no 3111/10 (ECtHR, 18 December 2012).

⁷⁰ *Vladimir Kharitonov v Russia* App no 10795/14 (ECtHR, 23 June 2020).

⁷¹ *Cengiz v Turkey* App nos 48226/10 and 14027/11 (ECtHR, 1 December 2015).

⁷² *Kalda v Estonia* App no 17429/10 (ECtHR, 19 January 2016).

⁷³ *Amnesty International Togo v Togolese Republic* ECW/CCJ/JUD/09/20 (ECOWAS Court, 25 June 2020).

⁷⁴ *Socio-Economic Rights and Accountability Project (SERAP) v Federal Republic of Nigeria* (ECOWAS Court, 14 July 2022).

⁷⁵ *Association des Utilisateurs des Technologies de l'Information et de la Communication (ASUTIC) v Republic of Senegal* ECW/CCJ/JUD/29/25 (ECOWAS Court, 14 May 2025).

National courts elsewhere on the continent have reached similar results on narrower grounds. In January 2019 the High Court of Zimbabwe set aside a directive that had shut down the internet during protests over fuel prices, holding that the Minister who issued it had no authority to do so under the legislation on which he relied.⁷⁶ The decision turned on vires and not on proportionality. It is a reminder that the first question in any challenge to a shutdown is whether the person who ordered it was the person the law empowers, a question that remains live in India wherever a suspension is ordered by a District Magistrate and not by the Home Secretary.

The ECOWAS decisions offer India two lessons. The first concerns the characterisation of the right. The concept of access to the internet as a derivative right, protected because it enables expression, is close to the position the Supreme Court adopted in *Anuradha Bhasin*, and it shows that an international tribunal applying a human rights treaty reached the same conclusion without needing to recognise a free-standing right. The second concerns legality. The Togo decision turned on the absence of a legal basis for the shutdown. India, unlike Togo in 2017, has a statutory basis, and the 2024 Rules strengthen it. But legality in human rights law requires more than the existence of a statute; it requires a law of sufficient precision and with sufficient safeguards to prevent arbitrary application. That is the standard the European Court applied in *Yildırım*, and it is the standard against which section 20 and the 2024 Rules must ultimately be measured.

XII. COMPARATIVE ANCHOR III: THE UNITED STATES

The United States provides a contrast rather than a model. Internet shutdowns of the Indian kind have not been a feature of American practice, and the First Amendment would impose a demanding standard on any content-neutral restriction of this breadth. In *Packingham v North Carolina*, the Supreme Court struck down a state law prohibiting registered sex offenders from accessing social networking sites, describing cyberspace, and social media in particular, as among the most important places for the exchange of views, and holding that to foreclose access to social media altogether is to prevent the user from engaging in the legitimate exercise of First Amendment rights.⁷⁷ If a restriction targeted at convicted offenders failed that standard, a restriction applied to an entire population would face formidable difficulty.

The doctrinal route to that conclusion is worth setting out, because it differs from proportionality. A shutdown imposed in anticipation of unlawful speech is a prior restraint, and since *Near v Minnesota* prior restraints on expression have carried a heavy presumption of invalidity.⁷⁸ Even if a shutdown were characterised as a content-neutral regulation of the manner of communication, it would have to be narrowly tailored to serve a significant governmental interest and leave open ample alternative channels for communication.⁷⁹ A measure that closes the principal channel of communication for an entire population fails the second requirement almost by definition. The Supreme Court had already held in *Reno v American Civil Liberties Union* that speech on the internet is entitled to the highest level of First Amendment protection, with none of the qualifications historically applied to broadcasting.⁸⁰

American law is not, however, without an emergency power. Section 706 of the Communications Act of 1934 authorises the President, in time of war or threat of war, or during a national emergency proclaimed by the President, to suspend or amend the rules applicable to wire and radio communication facilities.⁸¹ The provision has not been used to shut down the internet, and its application to internet services would be contested. Its existence is nonetheless instructive. The practical difference between American and Indian experience lies less in the formal availability of an emergency power than in the institutional and constitutional culture that has kept such a power in reserve for extreme situations rather than deploying it as a routine instrument of local law enforcement. India's difficulty is not that it has a suspension power, which many democracies do, but that it uses it as an everyday tool of public order management.

The nearest American analogue to an Indian shutdown is instructive for what followed it. In August 2011 the Bay Area Rapid Transit authority in San Francisco switched off mobile telephone service in several of its underground stations for some hours in order to frustrate a planned protest. The suspension affected a handful of stations and lasted an afternoon. It nonetheless prompted an investigation by the Federal Communications Commission and legislation by the State of California, which now prohibits a governmental entity from interrupting communications service for the purpose of preventing its use except under an order signed by a judicial officer, on a finding of probable cause that the service is being or will be used for an unlawful purpose and that interruption is necessary to avert a danger to public safety, with a narrow exception for extreme emergencies in which an order must be sought afterwards.⁸² The California statute is a working model of the reform proposed in Part XIII. It accepts that there may be circumstances in which

⁷⁶*Zimbabwe Lawyers for Human Rights v Minister of State for National Security* (High Court of Zimbabwe, 21 January 2019).

⁷⁷*Packingham v North Carolina* 582 US 98 (2017).

⁷⁸*Near v Minnesota* 283 US 697 (1931).

⁷⁹*Ward v Rock Against Racism* 491 US 781 (1989).

⁸⁰*Reno v American Civil Liberties Union* 521 US 844 (1997).

⁸¹Communications Act of 1934, s 706, 47 USC s 606.

⁸²California Public Utilities Code, s 7908.

communications must be interrupted, and it insists that the decision be taken, or promptly confirmed, by a judge.

XIII. TOWARD REFORM

The analysis in the preceding Parts points to reforms directed at the specific gaps that allow shutdowns to be imposed more broadly and for longer than the proportionality test permits. Several can be achieved by amending the 2024 Rules; others require legislative change or judicial development.

First, the Review Committee should be made independent of the authority whose orders it reviews. The Standing Committee's recommendation that the committee include a retired judge and non-official members should be implemented. An alternative, which would provide a stronger safeguard, is to require that any suspension continuing beyond an initial short period, for example seventy-two hours, be confirmed by a judicial authority. Emergency orders would remain possible, but prolonged suspension would require independent approval.

Secondly, there should be a cumulative limit on suspension. The fifteen-day limit should apply to the total period of suspension affecting a given area arising from the same situation, not merely to each order. Continuation beyond that period should require a fresh, reasoned justification, subject to independent review, addressing why the circumstances that justified the original order still exist and why less restrictive measures remain inadequate. This would give effect to *Anuradha Bhasin's* holding against indefinite suspension at the level at which it matters.

Thirdly, the necessity requirement in Rule 3(4) should be given procedural content. Every order should record the alternatives considered, including content-specific blocking, platform-specific restrictions, geographic limitation and whitelisting of essential connections, and the reasons each was found inadequate. That reasoning should be published with the order, subject only to the redaction of specific operational details where strictly necessary.

Fourthly, the State should bear an evidentiary burden on rational connection. The authority should be required to record the specific basis for its conclusion that a shutdown would advance the stated aim. After the suspension ends, it should record an assessment of whether the aim was achieved. Over time, these records would create the evidence base that is now entirely absent, and would allow both the executive and the courts to evaluate whether shutdowns work in the circumstances in which they are used.

Fifthly, transparency should be made systematic. The Rules should specify that orders and Review Committee decisions be published on a designated public website within a fixed period, and a central database of all shutdowns ordered in India should be maintained, as the Standing Committee recommended. Grounds that fall outside Article 19(2), such as the prevention of cheating in examinations, should be expressly excluded as bases for suspension, and alternative measures directed at examination centres should be used instead.

Sixthly, the courts have a role independent of legislative reform. The Supreme Court can build on *Anuradha Bhasin* by treating a failure to record alternatives or to state a factual basis for rational connection as a ground for setting aside an order, rather than directing further executive review. The Manipur High Court's approach of requiring the State to engage with technically feasible alternatives, supported by evidence from service providers, offers a practical model for how that review can be conducted even during an ongoing emergency.

Seventhly, the principal safeguards should be moved from the Rules into the Act. Section 20 should itself state the maximum duration of a suspension, the requirement of a published and reasoned order, and the right to independent review, so that these protections cannot be diluted by executive amendment. The same amendment should state expressly that telecommunication services may be suspended only under section 20, and that section 163 of the Bharatiya Nagarik Suraksha Sanhita confers no such power. That would end the residual uncertainty described in Part V and ensure that every suspension passes through the procedure Parliament has prescribed.

Eighthly, there should be a remedy for those who suffer loss. At present an unlawful shutdown has no consequence for the authority that ordered it. A finding by the Review Committee or by a court that an order was made without jurisdiction, or was manifestly disproportionate, should carry a liability to compensate identifiable loss, at least for traders and workers who can show that their income depended on connectivity. The decision of the ECOWAS Court in *ASUTIC* shows that such awards are practicable, and Indian constitutional law already recognises compensation as a public law remedy for the violation of fundamental rights.⁸³ The amounts need not be large. The purpose is to make the cost of a shutdown visible to the authority that imposes it.

Ninthly, there should be oversight at the Union level. Since the power is conferred by a Union statute, the Department of Telecommunications should receive a copy of every order made by a State, maintain the central record the Standing Committee recommended, and lay an annual statement before Parliament giving the number, duration, area and stated ground of every suspension. Legislative scrutiny of this kind would not interfere with the States'

⁸³*ASUTIC* (n 75); *Nilabati Behera v State of Orissa* (1993) 2 SCC 746.

responsibility for public order. It would ensure that the use of a national power is known to the body that created it.

XIV. CONCLUSION

Indian law on internet shutdowns has changed substantially since 2019. The Supreme Court has recognised that expression and trade through the internet enjoy constitutional protection, that restrictions must be proportionate, and that suspensions must be published and cannot be indefinite. Parliament has replaced a colonial statute with a modern one, and the executive has adopted Rules that require publication, specificity and consideration of alternatives, and that allow a Review Committee to set aside unlawful orders. It would be wrong to dismiss these changes as cosmetic.

But the practice of shutdowns has changed less than the law. India remains the most frequent user of shutdowns among the world's democracies. The Manipur shutdown of 2023 showed that a State-wide suspension could be sustained for months through successive orders, each individually compliant with the formal limits, and that relief came from a High Court rather than from the review mechanism the Rules provide. The reason is structural. The present framework regulates the form of shutdown orders without supplying the elements that would make the substantive standards enforceable: review by a body independent of the government that ordered the shutdown, a limit on the total duration of suspension, and an obligation on the State to show, with evidence, that a shutdown serves the purpose for which it is imposed.

The decline in the number of shutdowns in 2025 does not alter that assessment. A power that is used less often in one year may be used more often in the next, and nothing in the framework explains the fall or guarantees that it will last. The figures also conceal the feature that matters most to those affected, which is duration. A single prolonged suspension of the kind seen in Jammu and Kashmir or Manipur does more damage than dozens of local orders lasting a day. So long as successive orders can be issued without a cumulative limit and without independent confirmation, the conditions that produced those shutdowns remain in place.

International human rights law, the jurisprudence of the European Court of Human Rights, and the decisions of the ECOWAS Court all point in the same direction. A shutdown affects everyone in an area in order to prevent the conduct of a few, and a legal system that permits it must ensure that the power is confined, by law and not merely by discretion, to the rare circumstances in which nothing less will do. *Anuradha Bhasin* stated that principle. The task that remains is to build it into the institutions that decide, day to day, whether the internet stays on.

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