RAMIFICATIONS OF INTERNET SHUTDOWNS ON ONLINE EDUCATION: BALANCING CONSTITUTIONAL CONFLICTS AND EDUCATIONAL RIGHTS

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ABSTRACT

Internet shutdowns, often implemented for public safety and security reasons, can significantly impede the right to education, especially in times of political or social unrest. In India, during periods of violence and racial tensions, temporary internet shutdowns have been employed to curb hate speech and misinformation. However, these shutdowns also hinder students' access to online learning, an essential component of modern education. This article scrutinizes the validity of internet blackouts in India and the constitutional protections afforded by Article 21(A) of the Constitution for the right to education. It delves into the rationale behind and consequences of internet restrictions on education, highlighting the challenges faced by students and e-learning programs. Case studies from prior instances of internet bans serve to illustrate the adverse effects on education. The article also explores the societal and legal repercussions of such restrictions and proposes potential countermeasures. Finally, it endeavors to reconcile the tension between internet shutdowns and academic freedom by presenting diverse perspectives, underscoring the importance of a balanced approach to safeguard both public safety and students' access to education in times of crisis.

Introduction:

The right to access the internet is a fundamental aspect of the freedom of expression outlined in Article 19(1)(a) of the constitution. While this freedom is not absolute and subject to reasonable restrictions for the integrity and security of the state, India has experienced intermittent internet shutdowns, primarily driven by concerns for public safety. These shutdowns, crucial in curbing the dissemination of hate speech, false information, and messages inciting violence during periods of violence and communal tensions, inadvertently infringe on educational rights protected under Article 21(A) of the constitution. The shift to virtual education, particularly in the wake of COVID-19, underscores the critical role of the Internet in education. However, when internet access is disrupted, it hampers this vital avenue of learning.

Legality of Internet Shutdowns in India:

Historically, the authority to order internet shutdowns, under Section 144 of the CrPC, was vested in magistrates, enabling them to curtail internet access in specific areas for defined durations, typically between 48 to 72 hours. While this practice is legally sanctioned, it should be employed as a last resort after exhausting alternative measures. Section 144 of the Code of Criminal Procedure (CrPC), originally designed for emergency situations, contains terminology like 'likely' and 'tends' that provide leeway for potentially arbitrary actions. Phrases such as 'obstruction', 'annoyance', 'health and safety', 'public tranquility', 'riots', and 'affray' within the provision do not necessarily align with the reasonable restrictions outlined in Article 19(2). In addition to Section 144 of the CrPC, several subsequent laws have expanded the legal framework for internet shutdowns in India.

- **Temporary Suspension of Telecom Services [Public Emergency and Public Safety] Rules, 2017**: Enacted in 2017, these rules empower competent authorities to issue written orders for shutting down internet services in specific areas. This can be justified in instances of public emergencies, to maintain law and order, prevent misinformation dissemination, uphold national security, and safeguard territorial integrity.

- **Telegraph Act, 1885:** Although primarily focused on the interception or retention of telegraphic messages, this act can be broadly interpreted to suggest that the government or

its designated authority possesses the capability to impose internet shutdowns in the interest of public safety. The government can exercise its authority to seize and intercept messages to safeguard public safety.

- **Information Technology Act, 2000:** Section 69A of this statute grants the central government the authority to ban or restrict public access to any content via computer resources if it deems it necessary. This power is exercised in defense of India's sovereignty and territorial integrity, state security, defense of India, and maintaining friendly relations with foreign nations.

Constitutional Safeguards for Online Education:

The right to education was not initially enshrined in the Indian Constitution. It was only after the 86th Amendment Act of 2002 that the right to education was substantiated under Article 21(A) as a fundamental right. Over time, this right has evolved to encompass not only physical education but also virtual education. Recent rulings affirm that the constitutionally guaranteed right to education under Article 21(A) necessitates adequate access to online education for disadvantaged children. This underscores the equivalence of virtual education to its physical counterpart, emphasizing the need to address the challenge of internet bans to preserve the integrity of the education system.

Constitutional Conflicts and Digital Discrimination:

Internet shutdowns not only infringe upon the democratic principles of free speech and expression outlined in Article 19(1)(a) but also encroach upon an individual's right to free trade and commerce as per Article 19(1)(g). This is due to the internet's role in promoting consumerism and providing a range of choices. A notable instance is the case of Gaurav *Sureshbhai Vyas v. State of Gujarat,* where a petition challenging the constitutionality of an internet shutdown was rejected, citing the need to maintain peace and order during agitations. Challenges to Equality and Digital Divide: Such shutdowns also run counter to Article 14, which upholds the principle of equality. They can lead to digital discrimination, disproportionately affecting minority or ethnic groups. Paradoxically, the government's initiative of 'Digital India', while aspiring to make the internet a pervasive medium, inadvertently exacerbates the digital divide. The government's imposition of

restrictions on internet service providers (ISPs) by creating whitelists is difficult to justify. This approach was questioned in *Shreya Singhal v. UOI,* where Section 66A was declared unconstitutional due to its overreach and lack of specificity, emphasizing the importance of reasonable restrictions under Article 19(2).

Evolution of Legal Framework:

Historically, internet shutdowns found justification under the Telegraph Act, 1885. However, the Supreme Court's ruling in *Hukum Chand Shyam Lal v. UOI* clarified that limitations under the Telegraph Act should only be imposed in cases of emergency or public safety. Subsequently, in 2017, the formulation of Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules introduced bureaucratic complexities and ambiguous terms such as 'public emergency' and 'public safety', allowing for broad interpretation. In response, the Supreme Court, in *Anuradha Bhasin v. UOI*, emphasized the importance of a 'proportionality and necessity test', along with a cost-benefit analysis. It also expanded the scope of judicial review by advocating for the public disclosure of government orders to promote transparency.

Rationale and Impact of Internet Bans:

Internet shutdowns in India are often employed in response to protests, political instability, security concerns, and high-profile national events. While effective in curbing the dissemination of inflammatory content, hate speech, and rumors, these shutdowns have a profound impact on access to educational resources. In today's digital era, quality education is heavily reliant on the Internet, making it indispensable for students. However, a proliferation of internet bans in India has resulted in a digital divide and discriminatory access to education.

Effect on E-Learning Initiatives:

The COVID-19 pandemic catalyzed the shift to digital learning, a flexible and effective platform preferred by millions of students. However, the efficacy of this arrangement is severely compromised during internet shutdowns. E-learning heavily relies on internet access for access to a wealth of educational resources, online courses, and content. While offline resources are available to some extent, they fall short of replicating the immersive virtual classroom experience.

Case Studies on the Effects of Internet Bans on Education:

The abrogation of Article 370 in Jammu and Kashmir witnessed an internet ban in the region, resulting in students struggling to access crucial information regarding board exams. Additionally, the blackout hindered interactions between students and teachers during online lectures, further exacerbating the educational disruption.

Assam (2016): In the northeastern state of Assam, internet bans were imposed in 2016 during a period of political unrest and agitation. The shutdowns were intended to prevent the spread of rumors and inflammatory content that could incite violence. However, these bans coincided with the period of university examinations, causing immense difficulties for students who relied on online resources for study materials and research. Students faced challenges in submitting online assignments, accessing e-learning platforms, and participating in virtual classrooms.

Haryana (2017): Haryana, another Indian state, experienced internet shutdowns in 2017 due to protests and civil unrest following the conviction of a prominent political figure. During this period, educational institutions faced disruptions in conducting online classes and assessments. Students had limited access to online libraries, research databases, and educational websites, affecting the quality of their education. The bans raised questions about the balance between maintaining public order and ensuring students' educational rights.

Uttar Pradesh (2020): In 2020, parts of Uttar Pradesh, one of India's largest states, witnessed internet shutdowns amid protests against a contentious citizenship law. The shutdowns took place during the university examination season, causing significant hardships for students. They encountered difficulties in accessing study materials, online examination portals, and communication with professors. Educational institutions had to adapt to the challenges of conducting exams in an environment with restricted internet access.

Manipur (2018): The northeastern state of Manipur faced intermittent internet shutdowns in 2018 during protests related to the demand for political reforms. Educational institutions in the region struggled to maintain the continuity of education. Access to e-learning platforms, research materials, and online classrooms was limited. Students, particularly those in remote areas, found it challenging to participate in virtual education due to the disruptions caused by the bans.

Legal and Social Consequences:

Internet bans not only breach Article 21A of the Constitution but also create a digital divide, perpetuating unequal access to education. This disparity may lead to legal challenges and potential financial repercussions for educational institutions, teachers, and students. Furthermore, restricted access to education may impede individual and societal advancement, ultimately impacting productivity and economic growth.

Contracts and Agreements: Educational institutions, teachers, and students often enter into contracts or agreements with e-learning platforms and service providers. Internet bans may lead to legal challenges regarding the fulfillment of these contractual obligations and potential financial consequences for all parties involved.

Public Transparency and Judicial Review: The legal framework governing internet bans has evolved, emphasizing the need for proportionality and necessity. The Supreme Court's insistence on making government orders public and promoting transparency enhances the scope of judicial review, ensuring that decisions regarding internet bans are subject to rigorous scrutiny.

Social and Economic Impact: Education and Skill Development: Prolonged internet bans can erode trust in online education, potentially leading individuals to revert to traditional teaching methods. This may hinder progress in the adoption of digital learning, impacting the development of essential skills in an increasingly digitalized world.

Economic Productivity: A workforce with restricted access to education and skill development through the internet may experience reduced productivity. This could have long-term implications for economic growth, as a digitally literate and skilled workforce is essential for a nation's competitive edge in the global market.

Public Perception and Trust: Trust in Government Initiatives: Internet bans may influence public perception of government initiatives, particularly those aimed at digital empowerment like 'Digital India'. Striking a balance between ensuring public safety and maintaining trust in such programs is imperative.

Mitigating the Impact of Internet Bans:

To address the challenges posed by internet bans, several measures can be considered:

1. Offline Resources: Governments and educational institutions can implement emergency measures, such as providing offline educational resources or establishing temporary learning centers equipped with offline materials. Collaboration with non-governmental organizations and local institutions can facilitate the distribution of educational resources during internet shutdowns.

2. Utilizing Broadcasts: Governments can leverage radio or television broadcasts for educational purposes, offering a wide range of subjects and grade levels to a broader audience. This approach is particularly effective for students without internet access.

3. Promoting Alternative Technologies: Exploring alternative communication technologies that do not rely on internet connectivity can be instrumental during internet bans. This may involve developing educational mobile apps, utilizing SMS services for educational content delivery, and other innovative approaches.

4. Establishing Education Helplines: Governments can establish phone helplines or messaging services in collaboration with educational institutions to provide immediate support and guidance to students. This allows for timely assistance with academic queries and concerns.

5. Leveraging Downloadable Content: Some e-learning platforms offer the option to download content for offline use. While students may not be able to utilize this feature without internet connectivity, educational institutions can compile and share offline materials with students via USB drives or other offline means.

Conclusion:

In conclusion, while internet restrictions are implemented with the aim of safeguarding public safety, they present significant challenges to the right to education, particularly in times of political and social instability. Addressing the legality of internet blackouts in India and upholding the rights

to education under Article 21(A) is crucial. The adverse effects of internet restrictions on e-learning and students' access to education underscore the urgency of viable alternatives. Temporary shutdowns impede educational progress while potentially preventing the spread of harmful content.

Decision-makers must prioritize the right to education during internet censorship and explore alternative methods to support student learning in challenging circumstances. Striking a balance between public safety and academic freedom is essential to ensure that students continue to receive quality education. By adopting inclusive and flexible approaches, societies can uphold both the right to free speech and the right to education, ultimately fostering an informed and well-rounded citizenry.

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