
ANALYSIS INTERNET SHUTDOWNS; FUNDAMENTAL RIGHT; JUDICIARY; REASONABLE RESTRICTIONS; CONSTITUTIONAL VALIDITY

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ABSTRACT

In today's era internet has become a critical part of everyone's lives. This paper evaluates the right to the internet as a fundamental right through constitutional ethos. In past years there has been an increase in internet crackdown by the Centre Indian government and by various state governments. Various tests are established as precedents by the Supreme court of India or different High courts in the country. In addition to this, the paper also sheds on the international standing of the right to the internet. The method of research I opted to complete this paper was doctrinal research from secondary sources. A significant part of the paper has been researched through articles available in web databases by scholars on the subject. The finding of the paper was that every order that curbs the right to the internet should go under the test of Articles 14, 19, and 21; otherwise, the order would not be in line with the constitution of India.

INTRODUCTION

"We are all now connected by the Internet, like neurons in a giant brain."

The above-mentioned itemise is from Stephen Hawking, well, his resplendence has been deeded to us due to the Internet. The value of the Internet has been continuously boosting since January 1 1983, known as the official birth of the Internet, revolutionising how métiers toil on this planet. Today, you and I cannot even concoct living without the Internet. How formidable our life would be without the Internet is the query we all are startled to ask. However, we have disseminated this quivering power to the State; the Government has all dominion to pilfer our lifeline away. Indian constitution marker could not take missive of this pest. However, they left big holes for the State to acclimate to revising circumstances. This was State in 2017 when the Union government hemmed reigns under the Indian Telegraph Act, 1885, to incarcerate access to the Internet. However, since internet showdowns are routine since Indian packs got access to it until then, the decrees were disseminated under Section 144 of the Code of Criminal procedure, the power bestowed with the district magistrate. The rule under the Indian telegram act 1885, plying power under section 7 of the Indian Telegraph Act, 1885.¹ The Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017, were amended on November 10, 2020, by the Central Government that added Rule 2A². "The suspension order issued by the competent authority under sub-rule (1) shall not be in operation for longer than fifteen days," reads the recently added Rule 2A. Prior to 2017, District Magistrates frequently issued orders to shut down the internet in accordance with Section 144 of the 1973 Code of Criminal Procedure.³ There has been a discordant point of view regarding the Internet being a fundamental right over the globe. United Nations has urged that every country make the Internet a fundamental right.⁴ The Supreme Court of India⁵ also professed the Internet a fundamental right following a Kerala high court judgement in 2017, becoming the first State to apprise the Internet.⁶ We shall liken both the judgement with the subsiding judgment of respective high courts and the Supreme Court. Western societies propel the annals of the State, recreating a minimalistic role. In contrast, a country like China pushes narrative through even scenarios the outside content in their country through the great firewall of China.

¹ Indian Telegraph Act 1885

² Indian Telegraph Act 2017 § RU.2A

³ Code of Criminal Procedure, 1973 Sec §144

⁴ Geneva: UN, 27 June 2016

⁵ Anuradha Bhasin v. Union of India, (2020) 3 SCC 63

⁶ Faheema Shirin R.K. v. State of Kerala, (2019) SCC OnLine Ker 2976

In this paper, we will discuss the global standing of States and the Judiciary regarding fundamental rights and scrutinise it through the Indian context and correspond to the Indian situation with it. Fundamental rights have been given a very open-ended spectrum through judicial activism with the judgement. With religious riots, the classic Indian fuss of freedom of speech and expression left a shield to the State for doing a cloak ban on the Internet. The need for a well-demarcating boundary.

INDIAN JUDICIARY ON THE INTERNET

With political parties devouring crores on social media for propaganda, social media has much polarisation, and unique locales like Twitter cater to political agendas. Is it attainable to articulate thoughts on these harpoons without the Internet? “The Supreme Court of India bore the same in the Judgment of PUCL vs Union of India that "Article 19(1)(a) of the Constitution guarantees the right to freedom of speech and expression.” Here, the stint "freedom" refers to the ability to speak, write, print, express oneself visually, or express oneself in any other way.”⁷ However, as India is a multifarious country, as the multifarious country symbolised by human nature, conflict is affixed to happen, or there may be an external or internal emergency. As we discussed, the Internet is a vital scaffold to depict one's what if this platform is used for unlawful intents. To what bit does the State have the Right to curb the Internet in the name of protecting its citizens? “The Court vacated this in the Judgment of Anuradha Bhasin vs. Union of India and Ors the Court held that Internet service hindrances or moratoria should not be unreasonable. As an upshot, the Court nailed that the limits' size and breadth had to be appropriate for the problem the Government was endeavouring to decrypt.”⁸ The Court had coached a Review Committee to steer periodic evaluations of such abeyance orders to guarantee that the Government does not impose such limitations forever. Let us go back to the pandemic and how our lives transformed. However, as invariably the human race acclimated to the online mode of education and how we all persisted in learning during the pandemic, Internet has all the credit. “In the case of Faheema Shirin R.K. vs State of Kerala and others, the Court held, according to Articles 21A and 21 of the Indian Constitution, the Right to use the Internet is a component of both the Right to education and the Right to privacy. Access to the Internet sweetens school quality while boosting students' learning possibilities.”⁹

⁷ People's Union for Civil Liberties (PUCL) v. Union of India, (1997) 1 SCC 301

⁸ Anuradha Bhasin v. Union of India, (2020) 3 SCC 63

⁹ Faheema Shirin R.K. v. State of Kerala, (2019) SCC OnLine Ker 297

THE AMBIT OF ARTICLE 21:

How much does a human life cost? Your answer most probably might be cherished of all. To rescue and sentry this, we have article 21, the footing of the constitutional scheme.¹⁰ Article 21 is of prime importance anything that dangers human life is subjected to Article 21.¹¹ Article 21 states that "No person shall be deprived of his life or personal liberty except according to procedure established by law".¹² "In Black Law's lexicon, the connotation of life is a state of being alive as a human; a person's existence;"¹³ However, this position has evolved the meaning of life has been correctly stated by "the Supreme Court of India in the case of Anita Kushawaha v. Pushap Sudan the Court stated the word life under Article 21 of the Constitution of India means not only life in the physical sense but a bundle of rights that makes life worth living there is no justice or other basis for holding that denial of access to justice would not affect the quality of human life to take access to justice and of the purview of Right to life guaranteed under Article 21."¹⁴ According to Black's Law, personal liberty means freedom to do as one pleases, opinionated only by the Government's Right to fetter public health, safety, and welfare. In the Kharak Singhs case, the Supreme Court reckoned the utterance "personal liberty". The Court stated that an individual has the Right to be free from limits or encroachments on his person under the Indian Constitution, regardless of whether those restrictions or encroachments are directly imposed or subtly caused by deliberate actions. The Indian Judiciary has done a commendable job in boosting the horizons of article 21. The Supreme court has played its game in revamping the literal connotation of life and liberty to annihilate liberty actions of the State, giving the citizen the means to live their life in the way they desire, subject to law and order. The Courts have done the job of stowing up with time and enclosing things that have become vital in human life due to technical changes like the Internet. (give how important is the Internet of India

THE INTERPLAY OF ARTICLES 14, 19, 21:

The Indian Constitution's "golden triangle"—Articles 14, 19, and 21 Judgement the judge bears in the dawning of these facts. In the case of "Maneka Gandhi vs Union of India, it was held by the Supreme Court that the validity of a law coming under Article 21 must be tested with

¹⁰ INDIAN CONST. ART § 21

¹¹ Id.

¹² Id.

¹³ GARNER, BLACK'S LAW DICTIONARY 1067 (ed.[10]

¹⁴ Anita Kushwaha v. Pushap Sudan, (2016) 8 SCC 509

reference to Articles 14 and 19. In the same case, it was held that the expression of personal liberty in article 21 is of the widest amplitude.”¹⁵ It causes a variety of rights which go to constitute the personal liberty of man. Some of them have been raised to the status of distinct fundamental rights and given "additional protection" under Article 19. “In the case of District Registrar and Collector, Hyderabad v. Canara Bank, The Court held that if the procedure prescribed does not satisfy the requirements of Article 14, it would be no procedure at all within the meaning of Article 21.”¹⁶ “In the case of R.C. Cooper vs Union of India, it was held by the Supreme Court of India that the Right to personal liberty in article 21 must be read with Article 19 and Article 14.”¹⁷ The stand of the Indian Judiciary can be summarised by the view held by the Supreme Court of India in the judgement of T.V Vatheeswaran v. State of Tamil Nadu that the theme of Articles 14,19,21 ¹⁸are not mutually deluxe, but they sustain, strengthen and nourish each other this ricocheted the earlier panorama given in the judgement of A.K. Gopalan v. the State of Madras ¹⁹the Court held that untried needs of a person for liberty in different orbs of life can now be claimed as a part of personal liberty under article 21 and these personal liberties cannot be restricted either by legislation or by law expect satisfying Article 14 and Article 21.

The contention mentioned above means the law in which the executive tries to contain the personal liberty of a person has to be strained on three fronts (i) whether the due process under article 21 was followed, (ii) the test given under article 19 (iii) the test of the arbitrariness of article 14. In the later part of the paper, we will examine the recent examples of internet shutdown by the executive and try to evaluate them based on these tests.

RIGHT TO INTERNET AS COMMUNITY RIGHT

Right to the Internet is a perfect blend of the concept of "community" with caprices of "rights". Internet is, in my opinion, a common pool resource. CPRs are innate or human-made resources where one person's use subtracts from another's use. It is continually necessary but formidable to exclude other users outside the group from using the resources. There are eclectic commons where the Internet can be appraised as a community pool resource. A common term for disseminated resources in which stakeholders have an analogous interest. Studies on the

¹⁵Maneka Gandhi v. Union of India, (1978) 1 SCC 248

¹⁶ District Registrar and Collector v. Canara Bank, (2005) 1 SCC 496

¹⁷ Rustom Cavasjee Cooper (Banks Nationalisation) v. Union of India, (1970) 1 SCC 248

¹⁸ T.V. Vatheeswaran v. State of T.N., (1983) 2 SCC 68

¹⁹ A.K. Gopalan v. State of Madras, (1950) SCR 88

commons enclose the information commons with issues about public knowledge, the public domain, open science, and the free exchange of ideas, all of which are at the core of direct democracy.²⁰

- (i) The Technology-Infrastructure common
- (ii) Budget Common
- (iii) Social Common

In this discussion of the Right to the Internet as a community right, we will confine our back-and-forth to the Technology-Infrastructure Common. Without meticulous wisdom of the links between higher bandwidth, better computers, and more users, the technology-infrastructure commons are ripening at a rate that thwarts wise future decisions. Due to this resource's elaborateness and potential significance—access to information at the most fundamental levels—harmonised efforts must be undertaken to spread knowledge and experience in multidisciplinary analysis. It is obvious that to maintain and continue to profit from this intricate information resource, educators, librarians, economists, technologists, Government and business leaders. The rising user base will work closely together and amuse in much more excellent communication. Therefore, I conclude in my own opinion that the Internet is a common pool resource.

Here, it is crucial to recognise other types of the congregation. The legal system's superstructures that homogenise the misuse of equitable rights about natural communities are being oppugned by constructing from within. A significant snag to community rights, such as the Internet, is the dearth of specialised tools with teeth commonly associated with communities' rights (within the greater community of rights). When we talk about Technology based conceptions of the commons, codification of weak laws that allow environmental abuses, and superstructures that overrule local community's ability to establish laws that suit their local conditions, all paint a picture of a highly corrupt and badly handicapped state system incapable of reacting appropriately to the most major problem confronting the community of communities, the Internet.

²⁰ FISCHLIN NANDORFY, *THE COMMUNITY OF RIGHTS*, OXFORD, 2020

INTERNET AS A FUNDAMENTAL RIGHT

Fundamental Rights were not a creation of constituent assembly; the injunction of Fundamental Rights was made as early as 1895 in the Lokmanya Tilak-inspired Constitution of India Bill,²¹ also known as the Swaraj Bill. The Indian National Congress requested the new Government of India Act to incorporate a "statement of the Rights of the People of India" at its special session in Bombay in 1918. The Commonwealth of India Bill by Mrs Annie Besant, adopted by the National Convocation of Political Parties in 1925²², likewise accentuated a precise statement of every person's fundamental rights. A statement of basic rights must be included in the foundation of any future constitution, the Indian National Congress ruled in its Madras Session in 1927. The Motilal Nehru Committee vehemently recommended in their report that the future Indian Constitution should include fundamental rights. The Indian Constitution, which the Constituent Assembly ratified on November 26, 1949, established India as the Sovereign Democratic Republic on January 26, 1950. The most antagonistic and criticized section of the Indian Constitution, Part III, provided a broad breadth of fundamental rights. It is significant to note that they are driven judicially enforceable against the State and its reps as well as against private parties. Generally, the Fundamental Rights patrolled by the Indian Constitution fit into a few categories.

Articles 14 through 16 grant the Right to equality in all forms and forbid bigotry based only on a person's race, religion, caste, sex, or place of birth. Article 19 ensures fundamental liberties like the Right to free speech and expression, the right to peaceful assembly, the Right to form associations or unions, the Right to travel freely, to live and work in any part of India, and the Right to practice one's religion, and the Right to engage in any occupation, trade, or business. The Constitution (Forty-fourth Amendment Act, 1978), which took effect on June 20, 1979, eliminated Articles 19(1)(f) and 31, which safeguarded property rights. These emendations led to a vicious cycle of the row between the Judiciary, which came end with the judgement of Kesvananda Bharti vs The Union of India. According to Article 21, no one may be deprived of their life or personal freedom unless accomplishing so per a legal process.²³ Articles 23 and 24 ensure protection from exploitation, including forced labour and human trafficking. The freedom of conscience and freedom of religion are cocooned in Articles 25 to 28. Articles 29 and 30 ensure minorities' rights to create and run educational institutions of their choice and

²¹ Lokmanya Tilak-inspired Constitution of India Bill 1885

²² National Convocation of Political Parties 1925

²³ Id. at 6

preserve their language, script, and culture, but is this list full proof? The retorts fib in the proceedings of the Constituent Assembly deliberations, alluding that the Founding Fathers believed that the many fundamental rights included derivative rights and did not require a separate mention. Because it is implied in the aforementioned provision, our Supreme Court has inferred the Internet as a fundamental right from Article 19(1)(a) and Article 21 of the Constitution in several decisions. Thus, by imaginative judicial interpretation, our Constitution has elevated the Right to the Internet to the rank of a fundamental right. The Supreme Court has given the press adequate protection based on the basic principle that limits on fundamental rights should be carefully defined and not expanded by implication or inference after deriving the Right to freedom of the press from the guarantee of free speech and expression. Specific categories of limits that may be placed on press freedom and, by extension, on the practice of free speech are listed in Article 19(2) of the Constitution. Article 19 omits mentioning the heading "interests of the general public," defined concerning other fundamental rights in Article 19 (2).

REASONABLE RESTRICTIONS TEST

(With testing past executive orders)

The Indian Government has been notorious for impeding the Internet by summoning Section 144 of the Code of Civil Procedure. In the state where I am noting this paper, Rajasthan is notorious for the same. According to the Software Freedom Law Centre, since 2012, there have been 665 Internet Shutdowns in India. Rajasthan has had around 85 illustrations of Internet doldrums in the past ten years. In the last three years, more internet shutdowns have transpired in Rajasthan than in any other Indian state, even more in Jammu and Kashmir, according to attorney Krishnesh Bhat of the Internet Freedom Foundation (IFF). This organisation boosts against dictatorial Internet restrictions. Now, whether these impediments are reasonable as specified under the Indian Constitution. In this paper, I'll analyse the Internet shutdown in Kashmir after the abrogation of Article 370 and the Internet shutdown in the recent farm protest. As we discussed earlier, the validity of the law under Article 21 must be strained along with perturbing Articles 14 and 19.

SHUTDOWN AFTER ABROGATION OF ARTICLE 370

On August 5, the Centre divulged the annulment of Article 370 and the division of Jammu and

Kashmir into the two union territories of Jammu and Kashmir and Ladakh; internet services were shut down. However, the Jammu Kashmir Government failed to state that adequate reason the only public notifications finally placed before the court were two vaguely worded “sample” orders issued by District Magistrates in Two Districts under Section 144 of the Criminal Procedure Code, 1973.²⁴ However, the ruling Government unofficially stated that it was to control the spread of insurgency and prerogative remarks given by leaders, not on India’s side. The Internet shut down in vogue for nearly two years.

ARTICLE 14 TESTS FOR ARBITRARINESS

In the case of *E.P Royappa vs the State of Tamil Nadu*,²⁵ the pristine doctrine of arbitrariness and unreasonableness is not the same. Being arbitrary is unimpeachable sometimes. Other times, it is possible to be ludicrous without also being capricious. It is deemed opportune if adequate evidence is provided to justify a choice. Only when there is no valid reason to choose one resort over another when fronted with two or more possibilities is a decision arbitrary. A choice for expedient but dubious or sketchy reasons would not be arbitrary. When any logic and no sane person do not endorse something would accept it, it is said to be arbitrary, as held by *E.P Royappa*. The Government gave no “reasons” in justifying that, and two years is unreasonable, excessive, arbitrary, something an ordinary reasonable man will not do.

THE DOCTRINE OF PROPORTIONALITY UNDER ARTICLE 19

According to the *District Registrar and Collector, Hyderabad v. Canara Bank*, it was held that procedure which restricts Article 21 must defy the test of fundamental right consulted under Article 19 in case the proportionality given in the reasonable restrictions as given in Article 19 (2) According to the notion of proportionality, the court should torment with how the decision-maker established his priorities, concluded, or made a judgement. In the current case, the reason was not given for decision-based going against the doctrine of proportionality. The action of the Government in restricting the right to the Internet failed both tests, denoting it is not valid under Article 21. The said hierarchy gets perforated in the mud of interplay of Article 14, 19, 21 that thus is unconstitutional.

²⁴ Criminal Procedure Code 1973 Sec § 144

²⁵ *E.P. Royappa v. State of T.N.*, (1974) 4 SCC 3

THE FARM PROTEST - THE INTERNET SHUTDOWN

In the case of the internet shutdown during the farm protest, The authorities cited fending public safety and preventing a public emergency as reasons to justify the stoppage. However, the validity of the avowal is really in question. However, unlike the above, the shutdown period was comparatively soft. There was looming violence on the street, which could have jeopardised public safety. There was an International crusade against the Government in vogue of farm protests. The pertinence of the said doctrines is impressionistic. However, in my opinion, the said order by the Government passed all the tests darting at the havoc that was enkindled in the country's capital.

INTERNATIONAL TREATMENT OF THE RIGHT TO ACCESS THE INTERNET

UNITED NATIONS

In 2011, United Nations Special Rapporteur report the following recommendations was held:

1. The Internet, unlike any other media, enables people to instantly and cheaply seek, receive, and transmit information and ideas of all sorts across international boundaries. The Internet accelerates economic, social, and political growth and advances humankind as a whole by significantly increasing people's ability to exercise their right to freedom of thought and expression, which is a "enabler" of other human rights. In this context, the Special Rapporteur urges other people with Special Procedures duties to discuss how the Internet relates to their specific missions.
2. States have taken steps to completely prohibit access to the Internet, in addition to blocking and filtering actions that prevent users from accessing particular Internet material. The International Covenant on Civil and Political Rights' ²⁶article 19, paragraph 3 is considered to be violated when people are denied access to the Internet for any reason, including when doing so would violate intellectual property rights, according to the Special Rapporteur.

²⁶ International Covenant on Civil and Political Rights 1966

3. All States are urged by the Special Rapporteur to make sure that Internet connection is always available, including in times of political instability.
4. All States should prioritise securing universal access to the Internet since it has evolved into a crucial tool for upholding a number of human rights, combatting inequality, and promoting development and human progress. In order to make the Internet broadly accessible, inexpensive, and available to all sectors of the population, each State should adopt a concrete and successful policy in collaboration with persons from all facets of society, including the corporate sector and key government agencies.

In 2016 United Nation Human Right Council ²⁷passed a Non-Binding Resolution thrashing out the intentional curb on the internet by some governments

In the same year, United Nations declared the Internet to be a basic right and Article 19 of the Universal Declaration of Human Rights (UDHR), which previously read: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and without regard to frontiers," has been amended to read: "Everyone has the right to freedom of opinion and expression." ²⁸ Another 15 proposals that address the rights of persons who work in and rely on internet access are added in Section 32 under the heading "The Promotion, Protection and Enjoyment of Human Rights on the Internet." It also holds true for women, girls, and people who are severely affected by the digital divide.²⁹

RIGHT TO INTERNET IN OTHER COUNTRIES

In 2001, Estonia designated access to the internet as a human right. Article 5 of the Telecommunications Act that was passed to declare internet has a human right reads that 'The set of telecommunications services specified in subsection (1) of this section comprises (2) Internet service which universally available to all subscribers regardless of their geographical location, at a uniform price.'³⁰ In 2009, Finland deemed internet access a fundamental right for

²⁷ Geneva: UN, 27 June 2011

²⁸ UDHR art § 19

²⁹ United Nation Human Right, *Resolution adopted by the Human Right Council on 1 July 2016 – 32/13. The promotion, enjoyment of human rights on the Internet*, THE UNITED NATION HUMAN RIGHTS (Nov 12, 2022, 10:04am), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/156/88/PDF/G1615688.pdf?OpenElement>

³⁰ Estonia Telecommunication Act ,2000 art § 5

all residents.³¹ Sweden, Canada, Germany, and Greece are some of the other nations that have made this declaration. Article 5A of the constitution of Greece and in particular its second paragraph reads, “All persons have the right to participate in the Information Society. Facilitation of access to electronically transmitted information, as well as of the production, exchange and diffusion thereof, constitutes an obligation of the State, always in observance of the guarantees of articles 9, 9A and 19.”³² The applicable section is Section 60 C of the Communications Market Act, and it is up to the Finnish Telecommunications Regulatory Authority to designate operators as universal service providers (FICORA). The goal of providing a connection across the nation was accomplished in 2010.³³ Mexico made internet access a fundamental human right in 2013, and as part of that declaration, the government was obligated to offer access to individuals who could not otherwise afford it, including by developing the necessary public infrastructure.³⁴

The argument for the recognition of the human right to internet access under CIL is strengthened by the growing state recognition of the right to access the internet across numerous locations and through a variety of modalities. Various courts have been recognising the right to the internet. The Costa Rican Supreme Court ruled in 2010 that having access to the internet is a basic right. ‘Based on the foregoing, the Constitutional Court concludes that the delay in opening verified telecommunications market has not only violated the right enshrined in Article 41 of the Constitution but also has affected the exercise and enjoyment of other fundamental rights such as freedom of choice of consumers as enshrined in Article 46, paragraph in fine constitutional right of access to new information technologies, the right to equality and the eradication of the digital divide (info-exclusion)-Article 33 of the Constitution-the right to access the internet through the interface that the user or consumer choice and free enterprise and trade.’³⁵ Even the Supreme Court of the United States has acknowledged that social media and internet access are “probably the most potent means available to a private individual to make his or her opinion heard and in the Indian State of Kerala the court declared the Right to access a basic human right.³⁶ The decision was made in

³¹ Greece Communication Market Act, 2010 Sec § 60

³² GREECE CONSTI art 5A

³³ Stephanie Borg Psaila, *Right to access the Internet: the countries and the laws that proclaim It*, DIPLO (12 NOV, 2022, 11:15 am), <https://www.diplomacy.edu/blog/right-to-access-the-internet-countries-and-laws-proclaim-it/>

³⁴ MEXICO CONSTI art 6 (Constitutionally amendment, 2013)

³⁵ Stephanie Borg Psaila, *Supra* note 14

³⁶ *Packingham v. North Carolina*, (2017) ___ 582 US

Spain regarding Right to Internet with the passage of Act 2/11 of March 4, Sustainable Economy, which made internet access a part of the universal service and mandated that any technology be used to deliver a broadband connection with a speed of 1Mbit/s.³⁷ In accordance with Article 52 of the law, conditions for public broadband connection must be established by royal decree within four months of the Act's coming into force.³⁸ On 25 November 2009, the 2004 Directive of the European Union was amended with 2009 Directive whose Article 4 reads 'Provision of access at a fixed location and provision of telephone services -(1). Member States shall ensure that all reasonable requests for connection at a fixed location to a public communications network are met by at least one undertaking. (2). The connection provided shall be capable of supporting voice, facsimile and data communications at data rates that are sufficient to permit functional Internet access, taking into account prevailing technologies used by the majority of subscribers and technological feasibility...'³⁹ which promoted the right to access Internet to the citizens of European Union.

The American government is making an effort to be proactive and guarantee that this significant right is realised. Domestic implementation could take the form of free Wi-Fi in towns (as is done in Amherst, Massachusetts and Helsinki, Finland),⁴⁰ public computers at community centres and libraries, subsidies for low-income households to purchase electronic devices and internet access, ensuring demand for internet access, promoting digital literacy, and designating the internet as a public utility.

There has been global trend which has promoted Right to Internet, India has been late to the party but Indians are becoming aware about their Right to Internet which was declared Fundamental Right by the Supreme Court of the country,⁴¹ however the violation of this right has not been stopped by the various state and Centre government of India. The liberal western democracy has been the first one to adopt the Right to Internet with the countries like India following, however the challenge would be making Right to Internet of a prime importance in least developed country which has been left out in the Internet revolution has not got its fruit however the Internet revolution has crippled some government due to the dissent against them that could be easily spread because of the Internet which has made political party to subtly defy

³⁷ Spain Sustainable Economy Act 2/11

³⁸ Spain Sustainable Economy Act 2/11 art § 52

³⁹ EUROPEAN UNION CONSTI art 4

⁴⁰ Logan Miller, *The Human Right to Internet Access*, VOICE OF PROMISE (15 NOV 2022, 4:05 AM), <https://www.promiseshumanrights.blog/blog/2021/10/the-human-right-to-internet-accessxf>

⁴¹ *Id.* at 4

the growing voice of declaring Right to Internet a human right. Politics will make it difficult to continue pressing governments to fulfil this duty. United Nation and other International Institution has been promoting. International collaboration will be crucial for the global achievement of the right to internet access.

CONCLUSION

In conclusion, I would like to point out that the Internet plays a crucial role in our life and has been rightly read into and recognized into the ambit of Article 19 and Article 21 by the Judiciary. The Supreme court has rightly held the government on the arbitrary violation of the Right to the Internet. The Supreme court has highlighted how important is Right to the Internet in enjoying other Rights like the Right to Education, Right to freedom of Speech and Expression etc , how Right to Internet is a deviatory Right.

In this paper, I have explained the Internet as a community right and how the judiciary cultivated the Right to the Internet under the ambit of Article 21 and Article 19. The Supreme court of the country has also held that the order violating right to Internet should be tested among the test of Article 14, Article 21, and Article 19 because of the interplay of these articles. I have also discussed various cases in which the Supreme Court of India has held the right to access the Internet as a Fundamental Rights ways, and I have also discussed various tests that an order has to pass through to restrict our right to the internet as a fundamental right. I have also applied these tests to various past orders by the executive, and I have also discussed the stature of the right to access the internet.