



## Behind the great Indian Internet shutdown

- In January 2020, the Supreme Court of India held that access to information via the Internet is a fundamental right under the Indian Constitution.
- The top court also ruled that any restriction on Internet access by the Government must be temporary, limited in scope, lawful, necessary and proportionate. The Court emphasized that the Government's orders restricting Internet access are subject to review by Courts.
- Unfortunately, these promises have remained unfulfilled. The year following the decision, India saw more instances of Internet shutdown than the year preceding it.
- India's Internet restrictions also accounted for more than 70% of the total loss to the global economy in 2020, and India remains infamous as the Internet shutdown capital of the world.

### Behind the great Indian Internet shutdown

The tag of the world's Internet shutdown capital stems from a lack of compliance with Supreme Court guidelines

**INDIAN NEWS, ANURADHA BHASKAR, ANURADHA BHASKAR**

On January 23, 2020, the Supreme Court of India held that access to information via the Internet is a fundamental right under the Indian Constitution. This was in the case of Anuradha Bhaskar vs Union of India, where the top court also held that any restriction on Internet access by the Government must be temporary, limited in scope, lawful, necessary and proportionate. The Court emphasized that the Government's orders restricting Internet access are subject to review by Courts.

The expectation was that this decision would limit the instances of Internet suspensions to only those exceptional situations where there is a public emergency or a threat to public safety. The legislatively mandated prerequisites for imposing Internet access, under various provisions have remained unfulfilled. The year following the decision, India saw more instances of Internet shutdowns than the year preceding it. India's Internet restrictions also accounted for more than 70% of the total loss to the global economy in 2020, and India remains infamous as the Internet shutdown capital of the world.

**Recent restrictions**

As we write this, the Government of the Union Territory of Jammu and Kashmir (J&K) has restricted access to social data in the valley of Kashmir. A few days ago, all Internet services had been shut down. These restrictions have been issued in the wake of the death of a local journalist and leader of the All India Congress Committee (AICC) who was killed by the government of Jammu and Kashmir.

**Broader trend**

The importance of the publication of Internet suspension orders cannot be understated. These are governed by the restriction cannot approach a court of law to question an order's legality in the absence of the order. In fact, if they do, the court may direct the Government to produce the order. But this will allow the Government to delay production of the order until after the restriction has subsided. This enables the Government to get away with illegal in-



an 823 applications stated that it was not even aware of the judgment in Anuradha Bhaskar until three months had passed since the Supreme Court's pronouncement.

**While awaiting impact**

However, Internet suspension also remains a problem independent of non-compliance with the directions of the Supreme Court. In 2020, the Indian economy suffered losses to the tune of \$25 billion due to 128 separate instances of Internet suspension, which affected 303 million individuals. The Internet is a source of jobs, training, entertainment, health care, education, livelihood and a platform for the conduct of business in the modern world. It is also a platform for research with much other and the world at large.

The harm – economic, psychological, social, and journalistic – caused by such suspensions can be significant and widespread. However, Internet suspensions ought to be imposed in times of emergency and not to curtail the exercise of the right to protest. In those times, the Internet is a necessity to seek help.

Moreover, it is also a need to verify rumours, and enable individuals and the Government to disseminate the truth. The September 21, the government of J&K restricted access to any form of communication on the ground that the prohibition would enable the general public and maintain a law and order situation.

A similar reason was stated to justify the Internet suspension in Kerala, Gujarat. However, the Government will do well to recognize that while a court can also 'guide the public', but the Indian judiciary will have access to the in-

**Lack of awareness**

In a court, the government's non-compliance with the law is difficult to comprehend. One has to study the decision of the Supreme Court as opposed to simply looking at the order to understand the obligations on the Government. The compliance with Section 69 of the Information Technology Act has shown that the Government's decisions are not judicially recognized, the officials enforce the law incorrectly simply because of a lack of awareness. In an example, the state of Meghalaya is trying to

attempt to circumvent the tenets of these reasons independently. Internet restrictions are often justified on the ground that they are limited to mobile data services. These conditions also state that the Internet is a fundamental right under the Indian Constitution. The Indian regulatory authority of the (TRAI) report on India's Telecom Services Performance Indicators, mobile device users (single and phone connected) across all major devices, the 3% of users have access to broadband Internet. These users are not likely to have changed significantly since then, and broadband Internet continues to be expensive. It follows from this that Internet restrictions also tend to adversely affect those from lower socio-economic backgrounds.

Considering these issues, it is not surprising that the Supreme Court, in Anuradha Bhaskar, permitted the Government to restrict Internet access only in limited circumstances. Parliament has also allowed these restrictions only in a public emergency or where there is a threat to public safety. Yet, in such times, Internet restrictions are much more common than de-activating a lack of compliance with the Supreme Court guidelines on the part of the executive government is needed to rid ourselves of the tag of the world's and the Digital India's potential.

Internet is a fundamental right of the citizen. The Government of India has a duty to ensure that the Internet is available to all citizens. The Government of India has a duty to ensure that the Internet is available to all citizens. The Government of India has a duty to ensure that the Internet is available to all citizens.

### Supreme Court directives not followed:

- While in these instances, the governments have published the orders restricting access, such publication remains an exception and not the rule despite the decision by the top court.
- The importance of the publication of Internet suspension orders cannot be understated. Those aggrieved with the restriction cannot approach a court of law to question an order's legality in the absence of the order.
- This non-publication of orders also undermines public confidence in the Government. The Internet is a necessity in this day and age, and restrictions without publicly disclosed reasons create a trust deficit.
- There is also a deficit because the Union Government has also not done enough to give statutory recognition to the directions in the Anuradha

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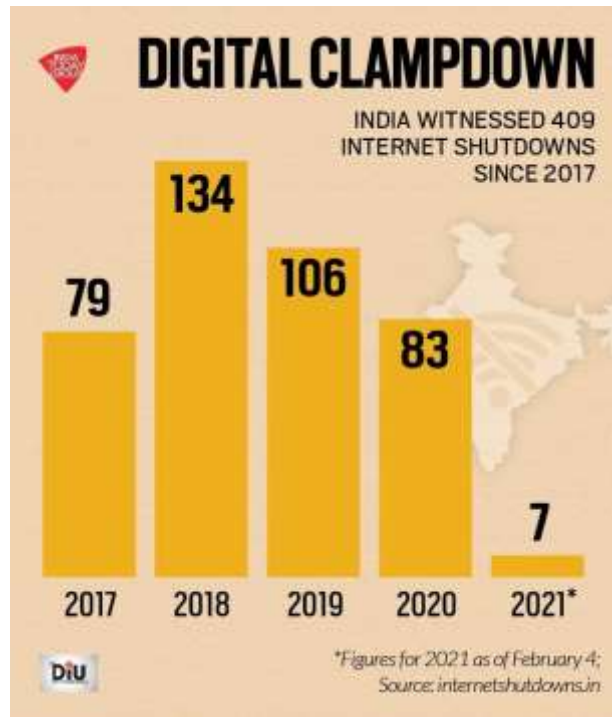
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Bhasin case. In 2020, it amended the Telecom Suspension Rules, 2017 to limit Internet suspension orders to a maximum of 15 days.

5. However, the amendment did not include an obligation on the Government to publish orders nor did it include the Supreme Court's direction to undertake periodic review of these orders.

### Wide-ranging impact

1. However, Internet suspension also remains a problem independent of non-compliance with the directions of the Supreme Court. In 2020, the Indian economy suffered losses to the tune of \$2.8 billion due to 129 separate instances of Internet suspension, which affected 10.3 million individuals.
2. The Internet is a source of information, entertainment, health care, education, livelihood and a platform for the members of Indian society to interact with each other and the world at large.
3. The harm — economic, psychological, social, and journalistic — caused by such suspensions outweighs any speculative benefits.
4. Internet suspensions ought to be imposed in times of emergency and not to stifle the democratic exercise of the right to protest. In those times, the Internet is a necessity to seek help.
5. Moreover, it is also a tool to verify rumours and enables individuals and the Government to disseminate the truth.
6. Internet restrictions are often justified on the ground that they are limited to mobile data services. These contentions also miss the point. According to a 2019 Telecom Regulatory Authority of India (TRAI) report on Indian Telecom Services Performance Indicators, mobile device users (dongle and phone) constituted 97.02% of total Internet users.
7. Only 3% of users have access to broadband Internet. These numbers are not likely to have changed significantly since then, since broadband Internet continues to be expensive. It follows from this that Internet







restrictions also tend to adversely affect those from lower socio-economic backgrounds more.

Considering these issues, it is not surprising that the Supreme Court, in Anuradha Bhasin, permitted the Government to restrict Internet access only in limited circumstances. Parliament has also allowed these restrictions only in a public emergency or when there is a threat to public safety. Yet, to much dismay, Internet restrictions are much more common than desirable and cannot be challenged because of a lack of transparency.

## Partners in the Indo-Pacific

India and Australia have completed one year of their Comprehensive Strategic Partnership and their bond is deepening. The '2+2' dialogue between India and Australia will provide substance to an already meaningful partnership

### The positive trajectory of relations

1. There is a growing convergence of views on geo-strategic and geo-economic issues backed by a robust people-to-people connection.
2. Further, the elevation of their '2+2' Foreign and Defence Secretaries' Dialogue to the ministerial level emphasises the positive trajectory of their transforming relations.
3. Both countries have an enduring interest in a free, open, inclusive and rule-based Indo-Pacific region. It includes stability and freedom of navigation for all nations in the region.
4. They have also stepped up security dialogue with key partner countries to deepen coordination in areas where security interests are mutual. The Malabar naval exercise by the Quad (Australia, India, Japan, the U.S.) is a step in this direction.

## Partners in the Indo-Pacific

The '2+2' dialogue between India and Australia will provide substance to an already meaningful partnership



RAJEEV RANJAN CHATTERJEE  
RAJESHUK SAHA

A few days ago, India's Defence Minister and External Affairs Minister held the inaugural '2+2' talks with their Australian counterparts. Both countries are taking several steps to implement their vision of a peaceful and prosperous Indo-Pacific region.

### Positive trajectory of relations

India and Australia have completed one year of their Comprehensive Strategic Partnership and their bond is deepening. Prime Minister Narendra Modi and Australian Prime Minister Scott Morrison elevated their bilateral strategic partnership to a Comprehensive Strategic Partnership in June 2020. Their personal connection is providing the political framework and impetus to this partnership. There is a growing convergence of views on geo-strategic and geo-economic issues backed by a robust people-to-people connection. Both countries have stepped up collaborations through institutions and organisations on many issues in bilateral, trilateral, plurilateral and multilateral forums. Further, elevation of their '2+2' Foreign and Defence Secretaries' Dialogue to the ministerial level emphasises the positive trajectory of their transforming relations.

Both countries have an enduring interest in a free, open, inclusive and rule-based Indo-Pacific region. It includes stability and freedom of navigation for all nations in the region. Given their common security challenges and in order to enhance regional security architecture, both countries have intensified bilateral security cooperation. They have also stepped up security dialogues with key partner countries to deepen coordination in areas where security interests are mutual. The Malabar naval exercise by the Quad (Australia, India, Japan, the U.S.) is a step in this direction. While this signals deeper engagement and cooperation between the Quad countries at the strategic level, at the tactical level, it also allows the navies to develop and refine advanced warfare tactics. In the Malabar naval exercise of 2020, India was represented by the Indian navy stealth frigate INS Shivalik and anti-submarine warfare corvette INS Kadmat, while Australia was represented by its Anzac class frigate HMAS Warramunga.

Trading between India and Australia has

seen remarkable growth in recent years. Two-way trade between them was valued at \$34.4 billion in 2020. The Indian economy is not only one of the largest economies in the world, but it is also going through a sectoral economic transformation. In this endeavour, Australia is a valued partner as both share their convergence from a rule-based international order, believe in inclusive economic integration in the Indo-Pacific region, and face challenges from a hegemonic China. Trade is rapidly growing and encompasses agribusiness, infrastructure, healthcare, energy and mining, education, artificial intelligence, big data and fintech. Both countries are working to build a long-term sustainable economic relation. In a joint communique last month, India's Commerce and Industry Minister and the Australian Trade Minister announced that an early harvest agreement by December will pave the way for an early conclusion of a bilateral Comprehensive Economic Cooperation Agreement between both countries.

But despite the growth in trade, India and Australia need to resolve old issues that pose a barrier to deeper economic integration. India has a high tariff for agriculture and dairy products which makes it difficult for Australian exporters to export these items to India. At the same time, India faces non-tariff barriers and its skilled professionals in the Australian labour market face discrimination.

### Forging a deep partnership

India-Australia relations have deepened in the last few decades owing to the alignment of strategic interests driven by a common value system. Both are vibrant democracies which have respect for international law and a belief in the equality of all nations irrespective of their size and strength. It is expected that the '2+2' dialogue will provide substance to this partnership. Expected meetings between the two Prime Ministers will further deepen political understanding and open more avenues for collaborations. Beyond bilateralism, both countries are also entering into partnerships with like-minded countries, including Indonesia, Japan and France, in a trilateral framework.

The Quad has gained momentum in recent months. The time is ripe for these countries to deliberate on a 'Quad+' framework. The geo-political and geo-economic churning in international affairs makes it imperative for India and Australia to forge a partnership guided by principles with a humane approach.

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### Trade relations:

1. Two-way trade between them was valued at \$24.4 billion in 2020. The Indian economy is not only one of the largest economies in the world, but it is also going through a tectonic economic transformation.
2. In this endeavour, Australia is a valued partner as both draw their congruence from a rule-based international order, believe in inclusive economic integration in the Indo-Pacific region, and face challenges from a belligerent China.
3. Both countries are working to build a long-term sustainable economic relation.

### Challenges:

1. But despite the growth in trade, India and Australia need to resolve old issues that pose a barrier to deeper economic integration.
2. India has a high tariff for agriculture and dairy products which makes it difficult for Australian exporters to export these items to India. At the same time, India faces non-tariff barriers and its skilled professionals in the Australian labour market face discrimination.

### Forging a deep partnership

1. It is expected that the '2+2' dialogue will provide substance to this partnership. Expected meetings between the two Prime Ministers will further deepen political understanding and open more avenues for collaborations.
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## Powering ahead in the future

### New Energy in E-vehicle segment:

1. Several things are going right regarding two-wheeler electrification in India. First, the government increased the FAME-II incentives for electric two-wheelers (E2W) to ₹15,000/kWh.
2. Second, more States such as Gujarat and Maharashtra have announced State-level electric vehicle incentives as part of their State policies.
3. Third, many startups are launching new electric two-wheeler models.
4. We know that the total cost of ownership of E2W is already competitive with petrol two-wheelers thanks to generous state and national incentives, and petrol prices being above ₹100/litre.

### Challenges:

1. As a result, E2W sales in India are likely to at least double in 2021 compared with 2020 levels. Yet, even if that happens, E2Ws will account for less than a per cent of new two-wheeler sales.
2. This is in part because the industry leaders offer only two electric models between them, and only in a handful of cities.

### Overcoming manufacturer reluctance:

1. The most active electric vehicle markets of the world have overcome this reluctance of leading companies to make and sell electric vehicles in two ways.

## Powering ahead in the future

We can ensure that manufacturers overcome their reluctance to enter the electric vehicles market

ANUP BANHIVADKAR

Several things are going right regarding two-wheeler electrification in India. First, the government increased the FAME-II incentives for electric two-wheelers (E2W) to ₹15,000/kWh. Second, more States such as Gujarat and Maharashtra have announced State-level electric vehicle incentives as part of their State policies. Third, many startups are launching new electric two-wheeler models.

As a result, E2W sales in India are likely to at least double in 2021 compared with 2020 levels. Yet, even if that happens, E2Ws will account for less than a per cent of new two-wheeler sales. This is in part because the industry leaders (Hero Moto-Corp, Honda, TVS, Bajaj, Suzuki, Royal Enfield and Yamaha), who account for nearly 99% of all two-wheelers sold in India, offer only two electric models between them, and only in a handful of cities.

#### Overcoming reluctance

The most active electric vehicle markets of the world have overcome this reluctance of leading companies to make and sell electric vehicles in two ways. The first is to establish a zero emission vehicles (ZEV) credit programme. This requires manufacturers of vehicles to ensure that either a certain fraction of their sales are ZEVs or that they purchase ZEV credits from manufacturers who have sold more ZEVs than required by the credit programme. There are many possible regulatory approaches by which India could set up such a programme. California and several U.S. States as well as China have used such an approach to stimulate model availability of electric vehicles.

The second is by putting in place a fuel efficiency/CO<sub>2</sub> emission standard stringent enough that it can best be met by making and selling ZEVs. As the example of the European Union's passenger car CO<sub>2</sub> standards shows, if CO<sub>2</sub> standards are sufficiently stringent, mainstream manufacturers introduce electric vehicles in meaningful numbers. In a recent briefing paper, my colleagues argued that India could use such an approach with great effect. If the 2W CO<sub>2</sub> standards for FY2025-26 are set at 28gCO<sub>2</sub>/km

(compared with 38gCO<sub>2</sub>/km in 2020-21), our research shows the cost-effective market share could be as high as 25% for electric motorcycles and 13% for electric scooters, for a 32% electric vehicle share of the total two-wheeler market. Similarly, if the two-wheeler fuel consumption standard were set at or below 20gCO<sub>2</sub>/km for 2020, that would likely ensure that at least 60% of new two-wheeler sales are electric that year. Conversely, if the 2025-26 standards are lenient, say as high as 36gCO<sub>2</sub>/km, then it will be cheaper to comply with ICE technology, and the standards will create an incentive in the market for E2Ws.

#### Environment friendly

In short, there are two reliable ways to overcome manufacturers' reluctance to enter wholeheartedly into the electric vehicle market: a mandate requiring them to build and sell electric vehicles, or efficiency standards stringent/ambitious enough to make building and selling electric vehicles the most profitable thing for them to do. We know that the total cost of ownership of E2W is already competitive with petrol two-wheelers thanks to generous State and national incentives, and petrol prices being above ₹100/litre. We also know that an E2W purchased today will contribute to an absolute reduction in greenhouse gas emissions. E2W are cost effective on total cost of ownership basis today, and likely to reach upfront cost parity later this decade. E2W will reduce greenhouse gas emissions and will be a cost-effective alternative for manufacturers to do so if tailpipe CO<sub>2</sub> standards are set at stringent levels.

What we need now is for the Bureau of Energy Efficiency and the Ministry of Road Transport and Highways to set 2W fuel consumption standards at 25gCO<sub>2</sub>/km in 2025 and 20gCO<sub>2</sub>/km in 2030. Doing so will not only ensure a 30% E2W share in 2025 and a 60% E2W share in 2030, but it will also pave the way for India to transition completely to E2W across all two-wheeler segments by 2035.

Anup Banhivadkar is the passenger vehicle programme director and Joint Director at the International Council on Clean Transportation.

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4. There are many possible regulatory approaches by which India could set up such a programme. California and several U.S. States, as well as China, have used such an approach to stimulate model availability of electric vehicles.
5. The second is by putting in place a fuel efficiency/CO<sub>2</sub> emission standard stringent enough that it can best be met by making and selling ZEVs. As the example of the European Union's passenger car CO<sub>2</sub> standards shows, if CO<sub>2</sub> standards are sufficiently stringent, mainstream manufacturers introduce electric vehicles in meaningful numbers.