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Advocacy for Change through Technology

Internet Rights

Are Human Rights



European Union



Internet Rights are Human Rights



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APC is an international network and non-profit organisation that wants everyone to have access to a free and open internet to improve our lives and create a more just world.



European Union

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**INTERNET RIGHTS
ARE HUMAN RIGHTS**

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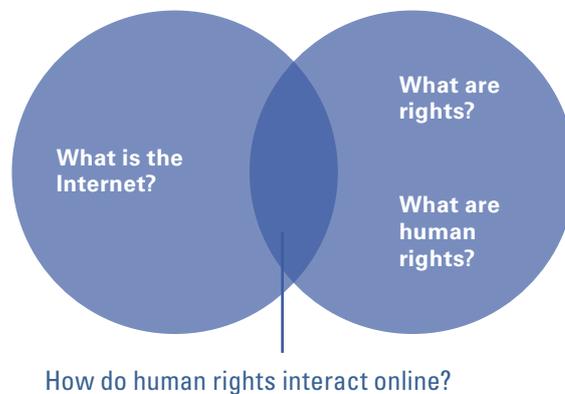
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DECONSTRUCTING INTERNET RIGHTS HUMAN RIGHTS (IRHR)

OBJECTIVE:

To make people aware that FoE online is a basic human right

1. Group exercise to set a context and deconstruct IRHR-Venn Diagram



- a. What does the internet mean to you? (Purposes, benefits, negative implications/effects)
- b. What are rights?
- c. What are human rights?
- d. What do you think is the prerequisite for people to access their rights?
- e. Do these rights apply online

2. Discussion about the concept of IRHR and FoE

3. Materials needed

- a. Prints of cases to be discussed
- b. Chart Paper for group activities – contingent on number of learners
- c. A4 sheets for notes and miscellaneous requirements

CONCEPTS TO BE INTRODUCED

- Freedom of Expression – Article 19
- Right to Life and Personal Liberty – Article 21

DECONSTRUCTING FREEDOM OF EXPRESSION (FOE) ONLINE

OBJECTIVE:

- Garner thoughts/views about FoE online
- Explain the concept of FoE

A. Accessing information and schemes, entertainment, education, career or jobs related rights

- Do you think that you or we have the right to express ourselves online?
- What does the word “**freedom**” mean to you?
- What does the word “**expression**” mean to you?
 - What are personal things we communicate or express online about?
 - What are public things we communicate or express online about?

B. International Human Rights Mechanisms

- International Covenant on Civil and Political Rights
- Universal Declaration on Human Rights
- Resolution L.13 on Promotion, Protection and Enjoyment of Human Rights on the Internet

C. FoE Rights in India

- **The Constitution of India 1949**
 - Article 19W(1) of The Constitution of India 1949
 - Article 19(2) reasonable restrictions under The Constitution of India 1949
 - Article 21:
 - Article 25: Freedom of Religion
- **Indian Penal Code 1860**
 - Section 124A
 - Section 153
 - Section 295A
 - Section 500
- **Indian Telegraph Act 1885**
 - Section 5
- **Information Technology Act (IT Act)**

EXPLORING FREEDOM OF EXPRESSION

GROUP EXERCISE

Questions to be answered

- What is expression?
- What is Freedom of expression (FoE)
- What is FoE offline?
- What is FoE online?

CONCEPTS TO BE INTRODUCED

- Article 19 (1) of the Constitution of India – in detail
- A/HRC/RES/12/16 – Freedom of Expression according to the UN Convention on Human Rights
- Article 19 (2) of the Constitution of India – in detail

GROUP DISCUSSION

Questions to be answered

- Does the individual have personal responsibility viz Article 19 (1) and A/HRC/RES/12/16?
Discuss why/ why not

THEME 1: HUMAN RIGHT, ICTS AND THE INTERNET

SCENARIO 1

REGULATION OF CONTENT BY THE GOVERNMENT OF INDIA ON GOOGLE, FACEBOOK, TWITTER AND OTHER PLATFORMS

Section 69A of the Information Technology Act (IT Act) 2011, gives the Central Government the power to issue orders to intermediaries to block information for public access when it deems it necessary in the interest of national security, sovereignty and integrity; to maintain friendly relations with foreign states or public order, or to prevent “incitement to the commission of any cognizable offence”

The Information Technology (Intermediaries Guidelines) Rules, 2011 places the responsibility on these intermediaries to inform users not to host, display, upload, modify, publish, transmit, update or share any information” that:

- Infringes upon personal privacy of the users
- Harms minors
- Content that is grossly offensive, defamatory, obscene, libelous, hateful, or racially or ethnically objectionable;
- Relates to money laundering
- Infringes upon patent, copyright, trademark or other proprietary rights
- Threatens national security or integrity of India
- Contains viruses, files or codes that has the potential to harm computers and systems

Intermediaries like Facebook, Twitter and Google have argued that since they deal with large amounts of content and data; any move towards monitoring content and data by the intermediaries themselves would be extremely difficult and unsustainable.

Section 79 of the IT Act places certain exemptions through which intermediaries would not be liable for any content that contravenes the provisions in Section 69A and the Intermediary Guidelines. These exemptions provide respite for intermediaries against liability on content on their websites.

However, these exemptions are deemed void in case an intermediary is shown to have any part to play in;

- a) Ownership – initiating the transmission (of infringing content),
- b) Select the receiver of the transmission and
- c) Editorial acts – (selecting or modifying information in the transmission)

The Indian Government sends take down/ removal requests to intermediaries. Google, Facebook and Twitter publish transparency reports that deal with the number of removal requests.

The numbers of content blocking/ removal requests received by the three biggest intermediaries are:

Removal Requests Received (for the period of July – December 2013)	
Intermediary Name	Details
Google	154 requests (540 items)
Facebook	4765 items
Twitter	8 items

ADDITIONAL INFORMATION

- <http://indiankanoon.org/doc/1965344/>
- <http://www.google.com/transparencyreport/removals/government/IN/?hl=en>.
- <https://transparency.twitter.com/removal-requests/2014/jul-dec>
- <https://govtrequests.facebook.com/country/India/2013-H2/>

QUESTIONS FOR DISCUSSION

1. In your opinion, can the removal of content by intermediaries at the request of the government be rationalised in light of the tenets of human rights as laid down in the Constitution of India and the UN Declaration on Human Rights?
2. Given the evolution of the internet in India and the rising number of internet users; will the Indian government be able to continue with the practice of takedown/removal notices?

SCENARIO 2

BLOCKING BASED ON OBSCENITY

Pornography in India has a rocky relationship with the legal framework. Section 292 of the Indian Penal Code (IPC) prohibits the production and distribution of any material that is deemed obscene. Sections 67 and 67A of the Information Technology Act, 2000 (IT Act) extend the provisions of Section 292 of the IPC to electronic forms of production and distribution. The Protection of Children From Sexual Offences Act (2012) heavily penalises the production, distribution and viewership of child pornography.

Further, the Indecent Representation Of Women (Prohibition) Act, 1986 (IRWPA) prohibits the production and distribution of material, where women are depicted in an indecent manner. The IRWPA defines indecent as “depiction in any manner of the figure of a woman; her form or body or any part thereof in such way as to have the effect of being indecent, or derogatory to, or denigrating women, or is likely to deprave, corrupt or injure the public morality or morals.” Despite all these laws, there is no law that makes the watching of pornography in private illegal.

However, in 2009, the Department of Telecommunications (DoT) blocked the online pornographic cartoon-strip, Savita Bhabhi. In 2013, the DoT sent a circular to internet service providers (ISPs) in India with a list of 39 websites that contained pornographic content, with orders to block the sites listed. The ISPs followed the orders and promptly blocked access to the websites.

In 2014, The Cyber Regulation Advisory Committee invited the Internet and Mobile Association of India (IAMAI) to create a list of porn sites from various sources and turn this list over to the Department of Electronics and Information Technology (DeITy), who would then move forward on blocking them.

Additional information

- <http://indiankanoon.org/doc/1704109/>
- <http://indiankanoon.org/doc/1318767/>
- <http://www.lawzonline.com/bareacts/information-technology-act/section67A-information-technology-act.htm>
- <http://wcd.nic.in/childact/childprotection31072012.pdf>
- <http://wcd.nic.in/irwp.htm>
- <http://www.cuttingthechai.com/2011/02/4828/savita-bhabhi-blocked-again-in-india-also-typepad-and-mobango/>
- <http://archives.scroll.in/article/703746/blocking-online-porn-who-should-make-constitutional-decisions-about-freedom-of-speech>
- <http://www.gizbot.com/tech-biz/indian-government-bans-32-porn-websites-012726.html>

QUESTIONS FOR DISCUSSION

1. Given the information on the legality of pornography, do you think the government was right in ordering ISPs to block the websites?
2. Do you believe that the blocking of these sites affected legitimate expression on the internet?
3. Do you think that blocking is an effective deterrent to accessing pornographic content?

SCENARIO 3

GOVERNMENT ORDERS ISPS TO BLOCK 32 WEBSITES

In mid-December 2014, the Government of India, through the Department of Telecommunications (DoT) sent a circular to ISPs ordering the blocking of 32 websites. A detail of some major websites and the traffic generated from India is below:

Major websites block in DoT Circular in December 2014		
Website (Type)	Global Rank on Alexa.com	Traffic Generated from India (Percentage)
Dailymotion.com (Video)	86	10.4%
Vimeo.com (Video)	170	5%
Github.com (Code Sharing)	97	15.7%
Weebly.com (Web Hosting)	263	17.3%

The Government of India later revealed that the websites were blocked because they contained information and recruitment propaganda from the extremist terrorist group Islamic State of Iraq and the Levant (ISIS/ISIL). Additionally, they contained posts from certain people who were arrested by the police in connection to activities of ISIS.

While certain URLs in the circular were to specific webpages, most of the URLs listed were of entire websites. This was seen as an extreme measure undertaken by the government.

Historically, in cases of website blocking, the government does not release the reasons behind the block. However, in this situation, a representative of the ruling political party (BJP) tweeted:

“The websites that have been blocked were based on an advisory by Anti-Terrorism Squad, and were carrying Anti India content from ISIS. The sites that have removed objectionable content and/or cooperated with the on-going investigations, are being unblocked.”

On the 31st of December, the Ministry of Communications & Information Technology released a press release stating that they had contacted the administrators of the websites in the table above and the admins has instituted measures to block propaganda information from their websites.

Subject to this move by the website administrators, the government issued notices to unblock the sites.

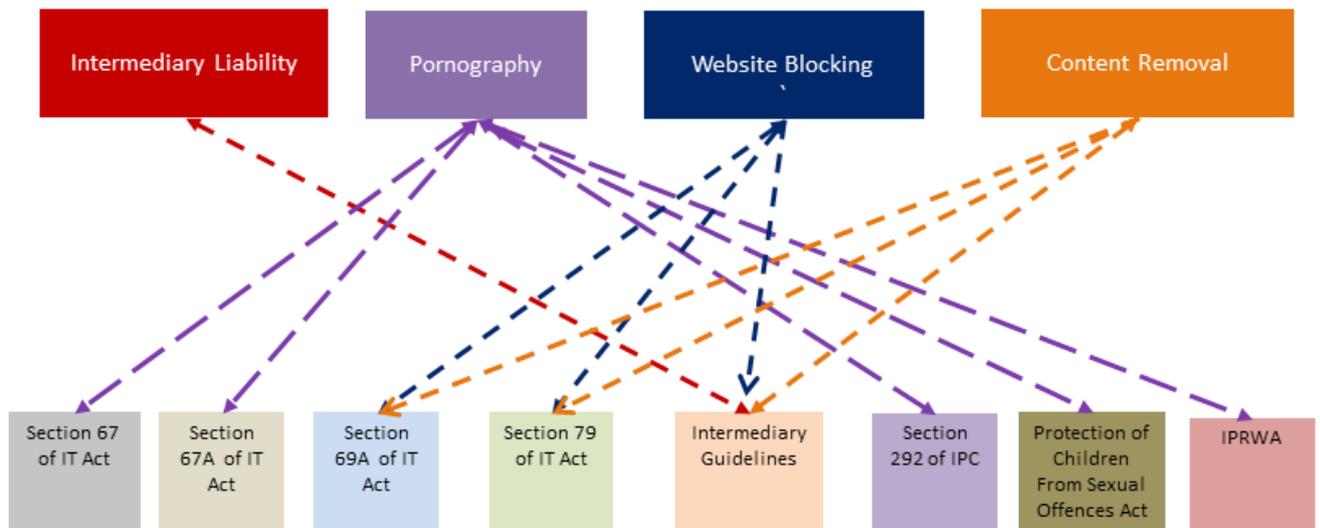
ADDITIONAL INFORMATION

- <https://www.techdirt.com/articles/20141231/02075529554/indian-government-orders-32-web-sites-blocked-including-github-archiveorg-pastebin-dailymotion-vimeo.shtml>
- <http://thenextweb.com/in/2014/12/31/vimeo-github-30-sites-blocked-india-content-isis/>
- <https://i.imgur.com/81vaZbP.png> - Circular ordering the block
- <http://pib.nic.in/newsite/mbErel.aspx?relid=114259>

QUESTIONS FOR DISCUSSION

1. Do you think the blanket banning of websites was an effective way of dealing with the infringing content?
2. Is the Government's silence on the reasons for blocking a website acceptable?

HUMAN RIGHT, ICTS AND THE INTERNET HANDOUT Mapping the Legal Framework



THEME 2: FREEDOM OF EXPRESSION AND FREEDOM OF INFORMATION

SCENARIO 1

ONLINE DEBATES ABOUT THE PK MOVIE

PK, a satirical science fiction comedy film was released in Indian in December, 2014. Promotional material released before the commercial release of the film showed the lead actor posing almost nude with a radio covering his genitals. This poster created a furore online as well as offline. A Writ Petition filed in the Supreme Court of India demanded blocking the release of the film. This petition was dismissed by the Court.

After its release, this debate was fuelled by what some Hindu nationalist organisations being enflamed by content that they felt was against their religious sentiments. A Public Interest Litigation (PIL) was filed in the Delhi High Court sought blocking the exhibition of the film on these grounds. While this PIL was rejected by the Court, the online debate raged.

Spokespersons for various Hindu nationalist organisations and other private individuals raised questions about the financing of the film, BJP spokesperson Subramanian Swamy tweeted “Who financed the PK film? According to my sources it is traceable to Dubai and ISI. DRI must investigate”

ADDITIONAL INFORMATION

- <http://lobis.nic.in/rtidhc/RSE/judgement/12-01-2015/RSE07012015CW1122015.pdf>
- <https://twitter.com/swamy39/status/549500620118319104>
- <http://www.thehindu.com/news/national/bajrang-dal-members-vandalise-theatres-screening-pk-in-ahmedabad/article6735632.ece>
- <http://www.thehindu.com/news/national/bajrang-dal-members-vandalise-theatres-screening-pk-in-ahmedabad/article6735632.ece>
- <http://www.dailymail.co.uk/indiahome/indianews/article-2725459/Let-art-remain-art-SC-judge-refuses-ban-film-based-vulgar-nudity.html>

QUESTIONS FOR DISCUSSION

1. Do you think that the poster for PK was offensive enough to deem banning the film?
2. Do you believe that a discussion online can allow for a similar breadth of conversation as those offline?
3. Do you believe that the tweet posted by the BJP leader was ethical? Why/ why not?

SCENARIO 2

RIGHT TO INFORMATION AND OPEN DATA INITIATIVE INDIA

The Indian Government passed the Right to Information Act in 2005 with the aim to provide an avenue for citizens to access information about government departments and agencies. It also provides a mandate to government bodies to be proactive about disclosing certain information. The RTI Act, 2005 has had its fair share of supporters and detractors. Its overall impact still remains a matter for considerable debate.

The National Data Sharing and Accessibility Policy was approved by the Government in early 2012 to encourage and govern the publication of government created and owned datasets, from various organisations, in open data formats and accessible through a single portal. The Open Government Data Platform of India was launched later that year to collect and publish government data. The Portal has also rich mechanism for citizen engagement. Besides enabling citizens to express their need for specific datasets or APPs, it also allows them to rate the quality of datasets, seek clarification or information from respective data controller. In addition, to support wider reach and dissemination of datasets, anyone can share the information about any dataset published on the portal with his/her social media pages on a press of a click.

Several innovative and useful apps across platforms and devices ranging from Mobile/Tablet, SMS to Voice-based applications using Open Government Data have been created which help the government serve its citizens better. Therefore, we see the advent of innovation building in India using government data through various types of APPs, mash-ups, info-graphics, visualizations and even services.

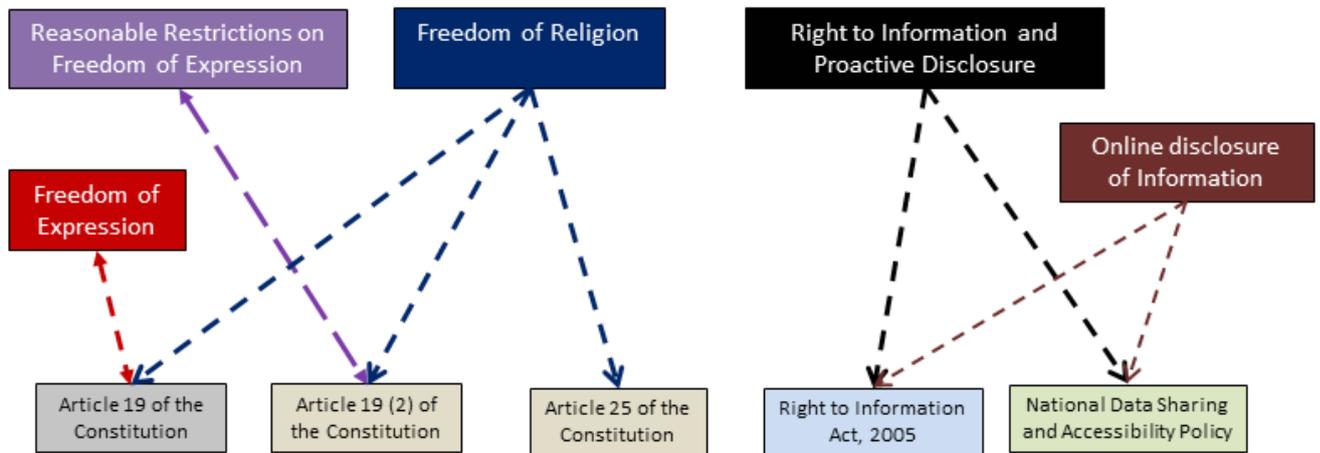
ADDITIONAL INFORMATION

- <https://data.gov.in/sites/default/files/brochure.pdf>
- http://www.opendataresearch.org/sites/default/files/publications/sumandro_oddc_project_report_0.pdf
- http://www.unece.org/fileadmin/DAM/stats/documents/ece/ces/ge.50/2014/Topic_3_India.pdf
- <https://data.gov.in>

QUESTIONS FOR DISCUSSION

1. Do you believe proactive information and data disclosure mechanisms are a good direction for the government to be taking?
2. What information would you access from such a platform?
3. Do you think this platform has a positive impact on transparency and accountability of government bodies?

Freedom of Expression and Freedom of Information Mapping the Legal Framework



THEME 3: FREEDOM OF ASSOCIATION AND FREEDOM OF ASSEMBLY

SCENARIO 1

TESTING THE RESTRICTIONS TO FREE ONLINE SPEECH IN INDIA

Section 66A of the Information Technology Act (IT Act) 2000 (Amend. 2008), establishes the punishment for sending offensive messages through any communication service. The particulars that this specific provision highlights in subsection (a) are about information that is “grossly offensive” or has a “menacing character.” Then it goes on in sub section (b) to include information that causes “annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, or ill will.” Broadly, it brings under its jurisdiction all kind of digital activity including (but not exhaustive of) status updates, tweets, wall posts, group messages, emails and picture shares across any online platform and using any kind of communication device. When created it was looked at like a game changer in the domain of Internet communication and content regulation about individuals, associations, companies and the Government at large. However, it turns out that it was never used like it was supposed to. Within four years, the first PIL against this law was filed and it was demanded that such a provision be abolished.

Table 1: Incidents of Section 66A of The IT Act, 2000

November 2011: Manoj Oswal - for allegedly having caused ‘inconvenience’ to relatives of Nationalist Congress Party chief Sharad Pawar for allegations made on his website. Section 500 of (Defamation), Indian Penal Code, 1860 also used.	April 2012: University Professor Ambikesh Mahapatra arrested for a political cartoon about West Bengal Chief Minister Mamata Banerjee.
November 2012: Two girls arrested over a comment questioning the total shutdown in the city for a political leader’s death. Section 295A, IPC also used.	March 2015: Vicky Khan was arrested for sharing a critical post about senior minister Azam Khan of Samajwadi Party

This jurisdiction in the times of WhatsApp did not lose its stand when Sayed Waqar, an MBA student from Bhatkal, Karnataka was arrested based on a complaint by Jayant Tinaikar against an image he received that showed BJP leaders LK Advani, Rajnath Singh, Sushma

Swaraj, Baba Ramdev, Maneka Gandhi, Varun Gandhi and others attending the final rites of Narendra Modi. This picture was captioned 'Na Jeet Paye Jhooton Ka Sardar — Ab Ki Baar Antim Sanskar (A false leader will never win, this time it's final rites)'. Even Sayed's roommates were brought in for questioning but were released the same day. The case never saw trial because Sayed was found not to be the originator. Roughly, around 18 arrests were made during the general election for circulating Anti-Modi digital content. However, the constitutionality of such arrests in terms of equality and fairness is questionable.

Finally in 2015, by means of a doctrine in law, as a result of the PIL in 2012, this particular section has been shadowed totally. Shocks to the supports of freedom of online speech came even after that when the Supreme Court ruled that any speech going against any "historically respectable figure" will be considered "putatively obscene".

ADDITIONAL INFORMATION

- <http://bangalore.citizenmatters.in/articles/know-this-law-well-it-can-arrest-you-for-a-facebook-post-or-text-message>
- <http://timesofindia.indiatimes.com/city/bengaluru/MBA-student-arrested-for-anti-Modi-message/articleshow/35610877.cms>
- <http://cyberblogindia.in/autobiography-of-section-66a-of-the-it-act2008/>
- <http://cis-india.org/internet-governance/blog/analysis-of-news-items-and-cases-on-surveillance-and-digital-evidence-in-india.pdf>
- http://www.telegraphindia.com/1140617/jsp/nation/story_18520612.jsp#.VXlwEnWlyko

QUESTIONS FOR DISCUSSION

1. In your opinion, what is the correct replacement for this law relating to freedom of online speech; what are the exact words that can demarcate a crime apart from "offensive, ill-will, hatred" etc.?
2. Do you think that there should be a limit on the freedom of speech online; is it that Internet is a free platform for whatever is to be shared?
3. Do you believe Section 66A was barbaric or was it just an exaggeration or misuse of the law?
4. Should there be a replacement to Section 66A in the law?

SCENARIO 2

CYBER BULLYING – THE CASE OF KAVITA KRISHNAN

Sec 66A introduced via Information Technology Act Amendment 2008 talked about Punishment for sending offensive messages through communication service, etc. According to it any person who sends, by means of a computer resource or a communication device

- any information that is grossly offensive or has menacing character;
- any information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, or ill will, persistently makes by making use of such computer resource or a communication device,
- any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages (Inserted vide ITAA 2008) shall be punishable with imprisonment for a term which may extend to two to three years and with fine.

It encapsulates any message sent via electronic medium or an attachment in the form of text, images, audio, video and any other electronic record transmitted with the message which majorly deals with cyber bullying.

In April 2013, activist Kavita Krishnan was invited by Rediff to participate in a chat discussing violence against women. Being the Secretary of the India Progressive Women's Association she willingly accepted the offer.

Questions started popping at her screen as soon as the setting for the chat was done at her office. After a little while during the session someone with the handle "Rapist" appeared. Like any other stereotypical men, the first message of the rapist to Krishnan read "Tell women to not wear revealing clothes, then we will not rape them" followed by a gaali. Krishna replied back. After a moment of silence, the Rapit replied "Kavita tell me where I should come and rape you using condom". Krishna was taken aback and hurriedly replied, 'Give me your name and address, and I'll show you'. This didn't stop the Rapist and he continued threatening Krishnan because of which she had to leave the chat session in between.

On 24th March 2015, section 66A became a history after Supreme Court's judgement on arrest of Vicky Khan for making a critical post about Azam Khan, a senior minister of Samajwadi Party. It has become hard to convict anyone under our current laws. Vakul Sharma, a New Delhi-based advocate in Supreme Court who specializes in cyber laws says there is no exact definition of cyber bullying under the Indian Penal Code (IPC) or the Information Technology (IT) Act. Earlier, these cases were booked under Section 66A of the IT Act but that was revoked.

ADDITIONAL INFORMATION

- <http://www.firstpost.com/living/rape-threats-on-rediff-kavita-krishnan-speaks-out-727395.html>
- <http://police.pondicherry.gov.in/Information%20Technology%20Act%202000%20-%202008%20%28amendment%29.pdf>
- <https://www.parentcircle.com/cms/clip/view/438/>
- <http://cyberblogindia.in/autobiography-of-section-66a-of-the-it-act2008/>
- <http://www.livemint.com/Leisure/lpQCFjgETbXachoWRxysO/Cyber-bullying-Nip-it-in-the-bud.html>

QUESTIONS FOR DISCUSSION

1. What kind of policies and law can Indian Government adopt on their own or from other nations to tackle cyber bullying?
2. According to you what steps can be taken to have a genuine identity of every user in the virtual world?

SCENARIO 3

ANONYMOUS #OPINDIA... ENGAGED!

In 2012, the Indian Government blocked various file sharing websites on the basis of a “John Doe” order by the courts in favour of a Chennai based firm, Copyright Labs to prevent copyright infringement of an upcoming movie.

Sites like Dailymotion, Vimeo, Pastebin and various torrent tracker websites were blocked in this proactive move to prevent piracy.

In retaliation, hacktivist group Anonymous targeted the websites of various government agencies, bodies and political parties. The web sites of the Department of Telecom, the IT ministry, the BJP and INC parties and the Supreme Court, among others, were all hit by Distributed Denial of Service (DDoS) attacks lasting over a day using the group’s preferred weapon: the low orbit ion cannon (LOIC).

Anonymous India had earlier released a video on YouTube warning the Indian government against the arbitrary blocking of the websites and gave a time of 1 week to reverse the order.

Anonymous released an open letter to the Government of India stating that they considered the DDoS attack a means of peaceful protest online and it did not constitute hacking.

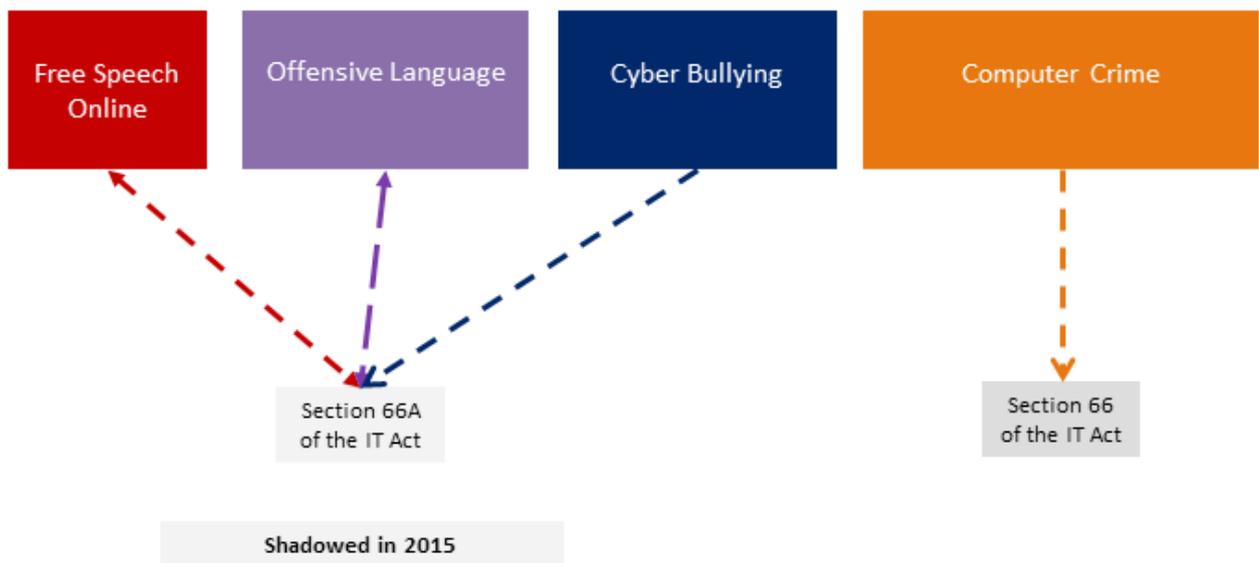
ADDITIONAL INFORMATION

- <https://docs.google.com/file/d/0Bxi2TzVXuI5ZUI9EcIRQZXIRdVdUb3c2S3EwSk1Udw/edit?pli=1>
- <http://www.bgr.in/news/anonymous-open-letter-to-indian-govt-claims-ddos-attack-on-sites-are-legal/>
- <http://www.indiancustomers.in/vimeo-dailymotion-pastebin-331.html>
- http://www.theregister.co.uk/2012/05/21/india_anonymous_cert_ddos/
- http://www.theregister.co.uk/2012/05/18/anonymous_ddos_india_sites/
- <http://arstechnica.com/security/2012/05/indian-supreme-court-orders-pirate-bay-pastebin-blocks-gets-ddosed/>
- <https://youtu.be/52zwwjkSVx2k>

QUESTIONS FOR DISCUSSION

1. Do you think that hacktivism is an effective tool for protest?
2. Would you have protested against the blocking of website? If yes, how would you have rallied individuals online against the order?
3. Do you believe that DDoS attacks are a peaceful form of protest?

Freedom of Association and Freedom of Assembly Mapping the Legal Framework



THEME 4: RIGHT TO PRIVACY

SCENARIO 1

INDIA'S CENTRAL MONITORING SYSTEM

Lawful interception of telephones is permissible under Section 5(2) of the Indian Telegraph Act 1885 which is governed by Rule 419-A of the Indian Telegraph (Amendment) Rules, 2007.

Section 69 of the Information Technology (Amendment) Act, 2008, which allows for the interception of all information transmitted through a computer resource.

Draft Rule 419B under Section 5(2) of the Indian Telegraph (Amendment) Act, 1885, allows for the disclosure of "message related information" / Call Data Records (CDR) to Indian authorities.

According to draft Rule 419B, directions for the disclosure of Call Data Records can only be issued on a national level through orders by the Secretary to the Government of India in the Ministry of Home Affairs, while on the state level; orders can only be issued by the Secretary to the State Government in charge of the Home Department.

In December 2009, the Home Ministry set up and hosted NATGRID. As a part of this, 21 databases are to feed 11 security agencies for national security.

The Central Monitoring System (CMS), which was largely covered by the media in 2013, was actually approved by the Cabinet Committee on Security (CCS) on 16th June 2011. Since then CMS has been operated by India's Telecom Enforcement Resource and Monitoring (TERM) cells, and has been implemented by the Centre for Development of Telematics (C-DOT).

ADDITIONAL INFORMATION

- <https://indialawyers.wordpress.com/tag/indian-telegraph-act-1885/>
- <http://www.sacw.net/article4793.html>
- <http://cis-india.org/internet-governance/blog/india-central-monitoring-system-something-to-worry-about>

QUESTIONS FOR DISCUSSION

1. Do you think there is a need for an authority like CMS to prevent cyber-crimes?
2. Does interception of information violates freedom of speech and expression?
3. How can a country prevent cyber-crimes in absence of information?

SCENARIO 2

REAL NAME REGISTRATION AND DATA RETENTION IN CYBER CAFES

In 2011, the Government of India issued the Information Technology (Guidelines for Cyber Café) Rules. These rules govern the establishment and operation of Cyber Cafes in India. Any user that wishes to avail the services of a cyber café must establish his/her identity by presenting either:

1. Identity card issued by any School or College; or
2. Photo Credit Card or debit card issued by a Bank or Post Office; or
3. Passport; or
4. Voter Identity Card; or
5. Permanent Account Number (PAN) card issued by Income-Tax Authority; or
6. Photo Identity Card issued by the employer or any Government Agency; or
7. Driving License issued by the Appropriate Government; or
8. Unique Identification (UID) Number issued by the Unique Identification Authority of India (UIDAI).

A copy of the ID, photo and various details about the user including; log-in time, log-out time, gender and computer terminal identification must be placed in a log register and submitted to the government.

Browsing history of all the computers in the café and details of any proxy serve must be logged and maintained in a secure location for a period of 1 year and must be turned over to the government in case they ask for them.

The availability of such information, which is personal in nature, with the cyber café could have negative implications on the right to privacy and personal security of the user.

ADDITIONAL INFORMATION

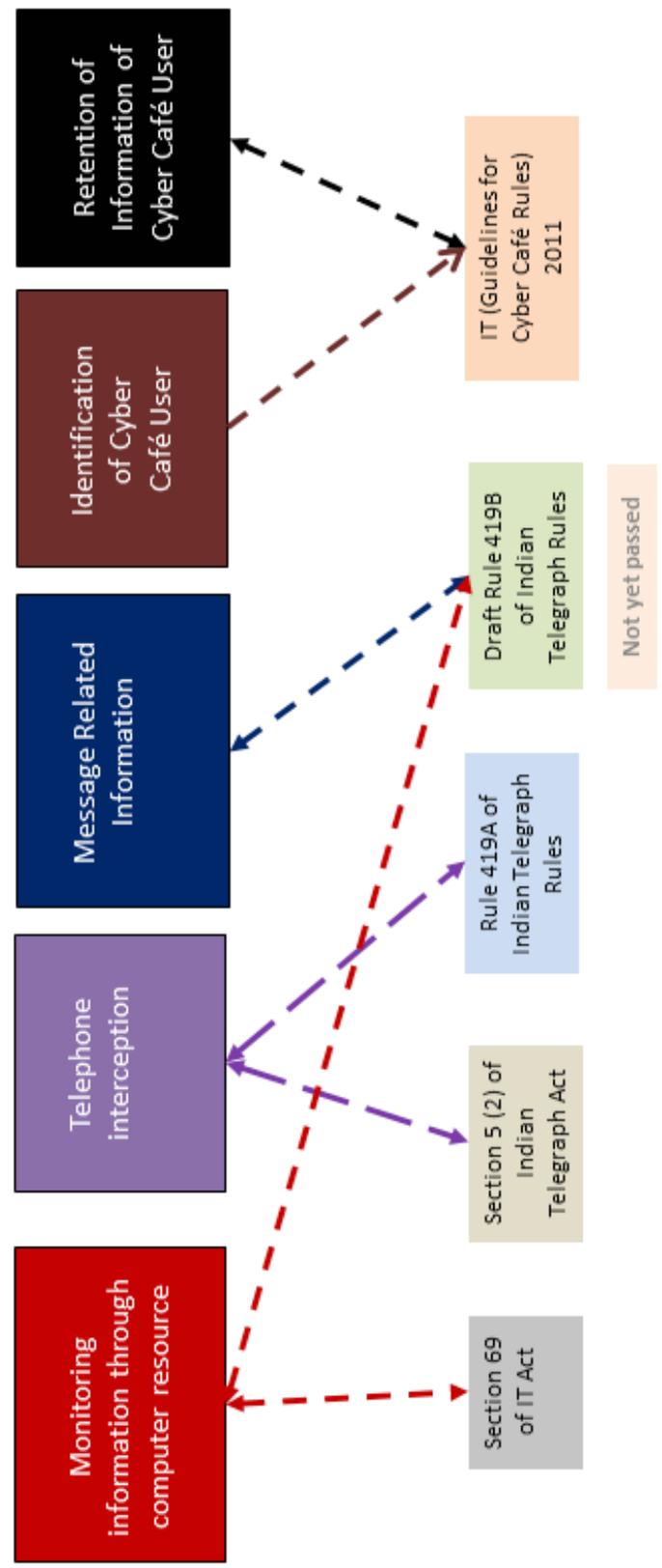
- [http://deity.gov.in/sites/upload_files/dit/files/GSR315E_10511\(1\).pdf](http://deity.gov.in/sites/upload_files/dit/files/GSR315E_10511(1).pdf)
- <http://trak.in/tags/business/2011/04/26/cyber-cafe-rules-india-guidelines/>

QUESTIONS FOR DISCUSSION

1. Are cyber cafés the cheap source of cyber-crimes?
2. Does enforcement of “cyber café laws” prevent cyber-crimes?

HUMAN RIGHT, ICTS AND THE INTERNET HANDOUT

Mapping the Legal Framework



UNIVERSAL DECLARATION OF HUMAN RIGHTS

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations, Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

ARTICLE 1.

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

ARTICLE 2.

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion,

national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

ARTICLE 3.

Everyone has the right to life, liberty and security of person.

ARTICLE 4.

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

ARTICLE 5.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

ARTICLE 6.

Everyone has the right to recognition everywhere as a person before the law.

ARTICLE 7.

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

ARTICLE 8.

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

ARTICLE 9.

No one shall be subjected to arbitrary arrest, detention or exile.

ARTICLE 10.

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

ARTICLE 11.

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

ARTICLE 12.

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

ARTICLE 13.

(1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

ARTICLE 14.

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

ARTICLE 15.

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

ARTICLE 16.

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

ARTICLE 17.

(1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

ARTICLE 18.

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

ARTICLE 19.

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 regardless of frontiers.

ARTICLE 20.

(1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

ARTICLE 21.

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

ARTICLE 22.

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

ARTICLE 23.

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

ARTICLE 24.

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25.

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

ARTICLE 26.

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

ARTICLE 27.

- (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
- (2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

ARTICLE 28.

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

ARTICLE 29.

- (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.
- (2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
- (3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

ARTICLE 30.

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

