

## Country Research Report Launch and Consultation on “Understanding the state of Internet Freedom in India

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The Country Research Report Launch and multi stakeholder consultation on “*Understanding the Freedom of Expression Online and Offline*” was inaugurated by Osama Manzar, Founder and Director of Digital Empowerment Foundation on the International Human Rights Day, where he spoke about the background and methodology adopted to prepare the report. While talking about the methodology he highlighted that the Association for Progressive Communication (APC)-Frank La-Rue (FLR) framework has been adopted to guide research, evidence collection and mapping of laws and policies covering 10 states and 600 respondents was conducted to understand ground level realities. He explored the findings of the 8 indicators viz; A) Access B) Disconnecting users from Internet C) Imposition of Intermediary Liabilities D) Arbitrary Blocking and Filtering E) Protection of the Right to Privacy and Data Protection F) General Protection of Freedom of Expression G) Criminalizing Legitimate Expression and H) Cyber Attacks. Stressing on these, Osama summarized the recommendations of the reports which are as follows-

1. Government should be transparent in terms of blocking, filtering and removal of the content and comply with international standards.
2. The Central Monitoring System (CMS) and Unique Identification (UID) systems be reviewed and reformed in line with international standards regarding the right to privacy.
3. The government, in collaboration with stakeholders expand quality internet access in a transparent, accountable, and affordable manner and become aware of and begin exercising internet rights as part of basic human rights in the 21st century.

4. NHRC incorporate internet rights as part of their approach to human rights, as articulated by the UN-HRC. This step would raise awareness about internet rights.
5. Civil society organisations collaborate with private sector, government, industry bodies and educational institutions to raise awareness about internet rights, within the human rights framework, particularly FoE and FoAA among grassroots citizens.
6. NHRC and the State Human Rights Commissions to have more independence and power of enforcement in particular to ensure their recommendations.
7. Administrative and law enforcement officials be provided with guidance, directives and training to uphold FoE online and offline.
8. Law enforcement authorities be held liable and accountable for human rights violations by an independent and democratic oversight body and court of law.
9. Individuals and communities should be able to seek financial and other resources, in a timely, equitable, transparent and accountable manner to exercise their FoE rights.
10. Consistent oversight of blocking of internet based content by competent authority be set up on a regular basis so that arbitrary actions are ruled out.
11. Victims of violations and abuses to rights of FoE have the right to effective remedy and redress in the court of law.

The speech was followed by, the launch of the Country Research Report by Dr. Johann Hesse – Head of Corporation, Representative of EU delegation to India; Arvind Gupta – National Technology Head, BJP; Mishi Choudhary – Executive Director, SFLC, Osama Manzar, Subho Ray – President, Internet and Mobile Association of India (IAMAI), Nikhil Dey, Social activist and member -Mazdoor Kisan Shakti Sangathan (MKSS) and Deepak Maheshwari – Director, Govt. Affairs, India & ASEAN, Symantec Corporation.

The key note addresses were delivered by Dr. Johann Hesse, Arvind Gupta and Nikhil Dey.

**Dr. Hesse** gave an overview about activities around the world under the European Instrument for Democracy and Human Rights (EIDHR). He spoke about the initiatives that EU has started in India and also highlighted the importance of the launch day being the 67<sup>th</sup> anniversary of the signing of the Universal Declaration of Human Rights. Speaking about Digital India he highlighted how internet has become one of the most important tools in acquiring information. He spoke about universal access to internet in order to exercise and enjoy people's right to Freedom of expression and opinion in his speech.

*“Internet has become an indispensable tool for issues like human rights, accelerating development and human progress, hence access to internet should be a priority for every state and appropriate policies should be drafted for the same.” – Dr. Johann Hesse.*

**Mr. Arvind Gupta** spoke about how the Digital Agenda has been one of the priority agenda of Indian government. According to him, per head internet usage in last one year has increased

Dramatically in the Indian context. Approximately 100 million users have been added in the last 15 months in India and that the country is widely recognized as an IT Power while also stressing on the point that cyber threats are no less a challenge to the country. **Mr. Nikhil Dey** spoke about



how, according to him the Right to Information (RTI) is connected to Article 21 ('Right to Life') and Article 14 ('Right to Equality') of the constitution of India. He spoke also in terms of 'Digital Inclusion' as people use more and more internet; there will always be a 'digital divide' same as literacy divide. As more and

more technologies come, a section of the population will advance while the other section will be fighting and running to catch up. Therefore India should think of creating an open platform.

Mr. Dey then spoke about Frank La Rue framework in light of RTI in the Indian experience. In this context he said the two most powerful slogans of RTI movement viz; '**Humara Paisa Humara Hisab**', where people want a form of accountability from Govt. and '**Hum Janenge Hum Jiyenge**', which is a question of where it is that my life connects with those questions of information. He also said that internet needs to be seen in the framework of democracy. Finally he concluded by saying that he feels, it also is extremely important how we bill the law in a participatory framework, not just looking at one aspect of internet or other.

*"UID turns RTI on its head; RTI is that citizen has the right to get information about the government all times, On the other hand UID tells the government what the citizen is doing all times." – Nikhil Dey.*

### Session I: Understanding the "Freedom of Expression Online and Offline" in conversation with experts

The session was attended by **Karuna Nandy** (Advocate of Supreme Court), **Geeta Sishu** (Editor, The Hoot), **Jyoti Pandey** (Programme Officer, The Centre for Internet & Society), **Mishi Choudhary** (Executive Director, Software Freedom Law Centre) and **Osama Manzar** (Director, Digital Empowerment Foundation). The session was moderated by **Mr. Deepak**

**Maheshwari** (Director-Government Affairs, India & ASEAN, Symantec Corporation). The session was started on the note by Mr. Maheswari on freedom of expression in Indian context.

He cited a case from 5th January, 1988 when the first incident happened where 100 million internet users were blocked. Thereafter he invited Ms. Karuna Nandy. Who initiated the discussion with the Sreya Singhal Judgement and pointed out the fact that if any internet site is blocked; appropriate reasons should be declared explicitly. In most cases the reasons and whether the block is constitutional or not is not clear. She also pointed out to the incident when 857 porn websites were blocked and law was not being followed. In case of blocking any site one should comply with natural justice and it becomes a duty to make the government follow the law. Ms. Jyoti Pandey raised the case of Sreya Singhal Judgement and Manila principles. In case of Sreya Singhal judgement the intermediaries were not discussed. She suggested that liability framework should be a two layered approach. Followed by her, Ms. Mishi Chuadhury spoke on right to privacy and data protection. She asked the participants about their preference on privacy and security. She also expressed the concern that often there is confusion between mass surveillance and targeted surveillance. She mentioned that privacy has three facets secrecy, anonymity and autonomy. She urged the participants to think about encryption and suggested to think locally fed by global policies. Her speech was wrapped by Mr. Maheswari where he also stressed on the symbiotic partnership between security and privacy. He then invited Ms Geeta Sishu to speak on the criminalization of legitimate expression. She initiated the discussion with the idea that internet and digital tool have been used in a good way to serve the have-nots. She also mentioned that there are no laws to protect the sources of the content. She also expressed that in some cases journalists feel safe to use Facebook and WhatsApp as a tool to disseminate information; there is also no attempt to book the culprits. There is another issue on which she expressed her concern on i.e., rapid contractualization and loss of jobs for number of journalists. She suggested that there should be cross media ownership and looking to the issue in terms of access to information.



Mr. Osama Manzar spoke on Access & disconnecting users from the internet. He expressed that access is a matter of death and life for Digital Empowerment Foundation. About 80 per cent is not connected to the internet although it is the only permanent media. He expressed the concern that why internet is not reaching the last mile. In most of the cases license cannot be provided in the village and license is not affordable. He recommended the village institutions like panchayat, post

offices and schools can be used as public access points; the point that stopping from giving access is executional incapability, results are not immediate and internet penetration requires literacy.

## Session II: Unboxing the Freedom of Expression Online & Offline

The participants were further divided into two sub-groups on basis of the six parameters. Each sub-group had a facilitator to initiate the discussion with key issues. The groups highlighted issues and identified recommendation points:

### Group 1: Discussed on issues of arbitrary blocking or filtering, criminalization of legitimate expression, access & disconnecting users from the internet

1. Better advocacy process and capacity building for legislators, regulators and enforces.
2. Use of the term “criminal deformations” is very vague so there is a need for legal reform to define such terms clearly.



3. Research and development with other stake holders like law commission, telecom regulatory authority, ministry of information and technology etc, for better reforms.

4. Challenging legalities of online curfews.
5. To put all cases of violations in the country report.

### Group 2: Discussed on issues imposition on intermediary liability, right to privacy and data protection & cybercrime & cyber attack

1. Laws should govern national surveillance.
2. National Surveillance should be meant for security purpose only and not for political or economic purpose.
3. Constructive exchange of ideas and consultation amongst the various stakeholders – citizens, government and policy makers on issues of digital inclusion and exclusion.
4. Implementation of Right to be Forgotten in Indian context.
5. Development of tools and designing technology in such a manner that privacy and security is taken into consideration.
6. Cyber cells should be strengthened.
7. The idea and mechanism of storage of citizen’s personal information by UID should be transparent in nature