

Factsheet

Internet Shutdowns in International Law

Prepared by Joan Barata, Senior Legal Fellow at Future of Free Speech Project, Justitia

This Factsheet is meant to complement our Special Collection paper [Internet Shutdowns in International Law](#), by focusing on the international standards linked to internet shutdowns and the relevant case law in this regard at the national and international levels. Jurisprudence on internet shutdowns is relatively scarce since very few of the cases being litigated focus on the human rights dimension of such practices. Most relevant judgments in this area can be found in the Columbia Global Freedom of Expression Case Law database. For complete access to all our internet shutdowns case analyses, readers can click [here](#) and learn more about how internet shutdowns are manifesting around the world.

Even though shutdowns are barriers to universal access to the internet and sustainable development, impeding freedom of expression and the right of access to information according to basic international human rights instruments, States have found reasons to uphold them in the name of public interest to protect national security and public order. This Factsheet features international and regional standards applicable to internet shutdowns, reflecting on the modern arguments—such as disinformation, propaganda, or cyber-attacks from abroad—that are used to justify them.

The Factsheet also focuses on the most important case law decisions on this matter, both on regional and national levels, and analyzes other relevant legal instruments. These norms and standards include international human rights law, views of intergovernmental organizations, international and human rights mechanisms, and experts' opinions aimed as a guide for a better understanding of internet shutdowns.

Definition of an internet shutdown under international human rights law

The definition provided by the United Nations High Commissioner for Human Rights (UNHCHR) states:

“Internet shutdowns are measures taken by a government, or on behalf of a government, to intentionally disrupt access to, and the use of, information and communications systems online. They include actions that limit the ability of a large number of people to use online communication tools, either by restricting Internet connectivity at large or by obstructing the accessibility and usability of services that are necessary for interactive communications, such as social media and messaging services.”

International human rights law and standards on internet shutdowns contain a uniform rejection of this instrument of information control. Both the United Nations, its member States, its institutions and agencies, and regional intergovernmental organizations, tend to view shutdowns as indiscriminate and disproportionate restrictions, thus incompatible with the three-part test. They entail significant harm to the fulfillment of human rights, including the right to freedom of expression, the right of access to information, and the right to peaceful assembly.

Case Law

Regional human rights courts

[Ahmed Yildirim v. Turkey](#) 2012 (European Court of Human Rights)

The European Court of Human Rights (ECtHR) has not issued any ruling regarding internet shutdowns in member States of the Council of Europe. However, the ECtHR has adopted several decisions referring to measures adopted by States preventing access to certain content, services, or online applications.

The decision in the *Ahmed Yildirim v. Turkey* case probably constitutes the most important decision by the ECtHR in this field. The applicant, in this case, owned and ran a website on which he published his academic work and views on various topics. The website was created using the Google Sites website creation and hosting service. Based on national legislation, the Telecommunications and Information Technology Directorate (TIB), an administrative regulatory body, blocked all access to Google Sites as a preventive measure in the context of criminal proceedings against the owner of a site hosted in the mentioned service, who was accused of insulting the memory of Atatürk.

The ECtHR stressed that the right to freedom of expression enshrined in Article 10 ECHR “applies not only to the content of information but also to the means of dissemination since any restriction imposed on the latter necessarily interferes with the right to receive and impart information.” Hence, the Court found a violation of article 10 ECHR under the argument that “the judicial review procedures concerning the blocking of internet sites are insufficient to meet the criteria for avoiding abuse.”

Sub-regional courts: the use of regional human rights standards by the Court of Justice of the Economic Community of West African States (ECOWAS)

[Amnesty International Togo and Ors v. the Togolese Republic](#) 2020 (ECOWAS)

This case was triggered by the decision of local authorities to cut off access to the internet during a period of popular protests. National authorities justified their conduct based on the “national security interest”, claiming that existing protests had the “potential to degenerate into a civil war” due to the hate speech and incitement to violence that was spread online.

The Court determined that internet access may not strictly be a fundamental right but is a “derivative right” as it “enhances” the exercise of freedom of expression. In this case, the Court opined that there was no national legislation that authorized the limitation of the right to freedom of expression through an internet shutdown. Therefore, the Court held that Respondent State’s decision to restrict internet access was a violation of the Applicants’ right to freedom of expression.

[SERAP v. Federal Republic of Nigeria](#) 2022 (ECOWAS)

The case originated after the State of Nigeria decided to suspend access to Twitter across the country in 2021—arguing that the social media platform’s operations threatened the stability of the country and undermined its “corporate existence”. Moreover, national authorities claimed that ongoing protests were sponsored by Twitter’s founder.

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The Court considered that the “derivative right” protected under Article 19 ICCPR and Article 9 ACHPR allows a person to enjoy the right to freedom of expression using whatever medium of choice, including access to social media platforms. Therefore, any restriction to access to the internet, including access to social media platforms, requires a legal instrument, which can be an existing law or court order (or, in most cases, both) and must respect the principles of legitimacy, necessity, and proportionality¹. Based on this, the Court held that, by suspending the operation of Twitter, the Nigerian government violated the Applicant’s right to freedom of expression and access to information and the media.

Decisions by national courts

The landmark case of *Anuradha Bhasin v. Union of India* 2020 (Supreme Court of India)

In 2020, the Supreme Court of India ruled that an indefinite suspension of internet services would be illegal under Indian law and that orders restricting internet access must satisfy the tests of necessity and proportionality. The case concerned the internet and movement restrictions imposed in the Jammu and Kashmir region in India during August of 2019, in the name of public order. Following Government orders, mobile phone networks, internet services, and landline connectivity were all shutdown in the region. The District Magistrates imposed additional restrictions on freedoms of movement and public assembly. The Attorney General argued that the restrictions were a measure to prevent terrorist acts and were justified considering the history of cross-border terrorism and internal militancy that had long plagued the region.

The Court established that even in cases where national security is used to justify restrictions to internet access, this would not *per se* justify not providing access to information regarding the specific decisions adopted by the competent authorities. The Court also acknowledged that (similarly to international human rights standards) India’s Constitution allows the Government to restrict freedom of expression as long as the limitations are prescribed by law, are reasonable, and pursue a legitimate purpose. The Court decided that the government had to review its suspension orders, particularly those that could be used to suppress legitimate expression, and lift those that were not necessary or did not have a temporal limit.

Unwanted Witness- *Uganda v. Attorney General* 2021 (Constitutional Court of Uganda)

The Constitutional Court of Uganda struck down a petition challenging a Government order shutting down access to social media and mobile financial services on two occasions: the presidential and parliamentary elections in February 2016 and the inauguration of the elected president in May of the same year.

In its analysis, the Court went beyond national jurisprudence and repeatedly referred to the Supreme Court of India’s case of *Anuradha Bhasin v. Union of India* stating that the parameters set there “are a good starting point” to determine whether an internet shutdown was consistent with the Constitution of Uganda. However, the Court held that the petition should have been submitted before another competent court given that it did not raise any questions requiring constitutional interpretation.²

¹ Once the lawsuit was filed, the Court held that it be heard expeditiously and ordered the respondent to desist from imposing the ban, sanctioning media houses, or arresting, harassing, intimidating, and prosecuting the applicants and concerned Nigerians for using Twitter and other social media platforms pending the hearing and determination of the substantive suit. Therefore, in this last case, the ECOWAS Court considered that the potential impact of Twitter’s suspension on the fundamental right to freedom of expression justified the implementation of interim measures during the examination of the case.

² Nevertheless, concurring opinions highlighted that any internet shutdown, no matter how short, would have adverse consequences in the digital era. Justice Bamugemereire noted that the internet is viewed as an enabler of other rights such as

Alliance of Independent Journalists v. Minister of Communication 2020 (Jakarta State Administrative Court)

In this case, the Jakarta State Administrative Court held that the actions taken by the government—shutting down the internet network in West Papua and Papua province—were unlawful. Thus, it ordered the government to pay the plaintiffs the amount of 457,000 rupiah (or \$30.59 approximately).

The Court recognized the relevance of the internet as an instrument for the effective exercise of the right to freedom of expression and acknowledged the need of international human rights standards to define the legitimate limits to this right—including measures to deal with the dissemination of illegal content.³

The Constitutional Court overturned the decision a year later noting that restricting internet access amid social unrest is constitutionally valid since “the government acted ‘within reason’ to forestall threats to public order.”⁴

The case of communications suspension and internet shutdown during the 2011 Egyptian revolution 2018 (The Egyptian Supreme Administrative Court)

In this case, a first instance court ruled that a shutdown order suspending communications and internet access during the 2011 Egyptian Revolution lacked a legitimate legal basis and was an abuse of power that did not seek the public good. Therefore, it was a violation of the constitution and the law and infringed on several fundamental rights.⁵

The Egyptian Supreme Administrative Court overturned the decision—which had levied an EGP 540 million fine against former President Mubarak, and his Prime Minister and Interior Minister. The telecommunication companies had previously explained that the sudden shutdown was undertaken in compliance with the orders issued by the

the right to expression and it is “about time that a safe way to access social media whether through the internet ... is guaranteed.” She further emphasized that the constitutional aspect of digital rights is a novel area for constitutional interpretation and that the question of internet shutdowns is a matter “that needs to be brought to the forefront and clear solution found for it including but not limited to creating clear rights and responsibilities around it.”

³ The Court also made an important observation regarding the right to access the internet by stating that “internet has been used not only as a vehicle to channel the right to express opinions and the right to seek, obtain and convey information, but also to be used as media to realize the broad freedom of expression which enables many other human rights to be carried out, including the right to education and teaching, the right to benefit from science and technology, arts and culture, the right to work, political rights, the right to associate and assemble, and the right to health services.”

⁴ The Court also noted that the government has a responsibility of “preventing the dissemination and use of electronic information and/or electronic documents that have prohibited contents by statutory provisions,” especially since the characteristics of the internet allow for the widespread dissemination of illegal content, which would adversely impact society.

⁵ The first instance court noted that “telecommunication and internet services are closely related to a set of fundamental rights and freedoms, such as freedom of expression, the right to communicate, the right to privacy, the right to internet access, the right to know, the right to information, and the interconnected rights: the right to development and the right to life.” Therefore, restricting these services by cutting, banning, preventing, or throttling them is a violation of these rights and freedoms that adversely affects the legitimacy of the shutdown order. Further, this court held that although the Government had invoked national security to justify the shutdown order, it concealed the true motive behind it: the protection of the regime, not the State.



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competent authorities as rendered by the contracts between the companies and the government, which empower the latter to issue such orders in case of national security threats.⁶

The Court concluded that a three-criterion accumulative test of fault, harm, and causality—to recognize the responsibility of the administrative authorities for the adoption of restrictive measures—was not fulfilled (by lack of “fault”). Hence, for the Court the shutdown order had a legitimate basis and was in accordance with the law.

⁶ In this case, the Court neither refers to relevant human rights principles included in the Egyptian Constitution nor mentions international or regional human rights standards to support its reasoning.