# INTERNET SHUTDOWNS AND HUMAN RIGHTS

WHAT ARE SHUTDOWNS?

All measures that intentionally prevent or disrupt access to, or dissemination of, information online are "shutdowns". Shutdowns come in a wide range of forms, including: bandwidth throttling to slow internet access, blocking of specific apps such as social media or messaging services, and the partial or complete shutdown of access to the internet.

WHY DO SHUTDOWNS MATTER?

Shutdowns restrict peoples' ability to access and share information and to communicate. As communication is central to our lives, shutdowns also affect other rights, such as the rights to work, health and education. In situations of conflict and unrest, disruptions exacerbate risks of further violence and insecurity. Shutdowns also have massive economic costs and undermine development. Shutdowns are a particularly recurrent concern in Africa, the Middle East and Asia.
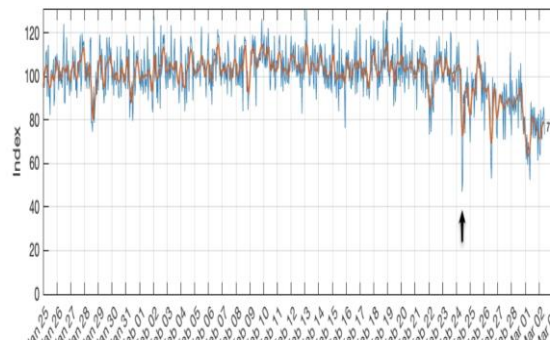
WHEN DO SHUTDOWNS VIOLATE HUMAN RIGHTS?

Human rights law allows for restrictions to public freedoms, but requires that such limits meet specific criteria, including the need for restrictions to be necessary, proportional, and non-discriminatory. When they fail to meet these requirements, shutdowns violate the rights to freedom of expression and to peaceful assembly and freedom of association under Articles 19, 21 and 22, of the International Covenant on Civil and Political Rights (ICCPR).

IS THE SHUTDOWN "NECESSARY"? Restrictions on free expression must be "necessary" for certain specified purposes such as the protection of national security or of public health (ICCPR, Art. 3). Governments, however, frequently impose shutdowns for other purposes, including in response to protests, in election periods, and at times for no stated reason at all.

IS THE SHUTDOWN PROPORTIONATE? Restrictions of free expression also must be "proportionate", using the "least intrusive" method to accomplish a legitimate aim. Given that the internet is now used to enjoy a wide range of rights, including health, work, and education, shutdowns are a blunt approach that is almost invariably disproportionate. Smaller scale restrictions, such as denials of service, are often discriminatory.

DOES THE SHUTDOWN HAVE A VALID LEGAL BASIS? Restrictions to freedom of expression must also meet the test of "legality". Shutdowns are often ordered covertly or without an obvious legal basis. Even when shutdowns are ordered based on laws and regulations, they may not satisfy the legality requirement if the criteria used to justify them are overbroad or vague or if they are adopted through opaque procedures.

IS THE SHUTDOWN TARGETING A SPECIFIC GROUP? The impact of shutdowns may be aggravated when they are implemented in a discriminatory way and target communities concentrated in specific geographical locations or heavily dependent on certain communication channels. Shutdowns thus can significantly increase marginalization and social and economic inequalities.

HOW CAN WE PREVENT AND RESPOND TO SHUTDOWNS?

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STATES, REGIONAL AND INTERNATIONAL ORGANIZATIONS can help by:

➢ **Engaging with authorities** before disruptions are likely to occur, such as during election periods and around public protests.

➢ **Paying attention to community reports** of disruptions of connectivity and corroborating those accounts quickly with support of open source data and specialized organizations.

➢ **Responding promptly when shutdowns occur,** including by contacting State authorities and companies to request information on the shutdown, including its duration, scope and legal basis.

➢ **Ensuring that international cooperation and aid that seeks to expand connectivity includes explicit references to preventing shutdowns,** including in licensing agreements.

> *"Blunt measures such as blanket Internet shutdowns, sometimes for prolonged periods, contravene international law, affecting States' obligations to respect, in addition to freedom of expression and the right to peaceful assembly, a wide range of rights, including freedom of association and of movement and the rights to health and education."*
>
> *UN Human Rights Council Resolution 44/20*

TELECOMMUNICATIONS COMPANIES implement disruptions, most often on states' requests. Under the UN Guiding Principles on Business and Human Rights, before implementing shutdowns, they should:

➢ **Explore all legal options for challenging requests** for shutdowns.

➢ **Promptly inform the public about any disruptions** and provide regular updates on their efforts to re-establish communications whenever communications are blocked.

➢ **Carry out human rights due diligence with regard to potential adverse impacts from network shutdowns** when entering or renegotiating license agreements with governments at all levels.

CIVIL SOCIETY AND OTHER INTERESTED PARTIES can also help end shutdowns by:

➢ **Networking with local digital rights organizations** and organizations in advance of shutdowns.

➢ **Reporting disruptions and corroborating community reports quickly** with support of open source data and specialized organizations.

➢ **Asking State authorities and companies to provide information on shutdowns**, including their duration, scope and legal basis and, where appropriate, challenging shutdowns in courts.

> *"Any restrictions on the operation of websites, blogs or any other internet-based, electronic or other such information dissemination system, including systems to support such communication, such as internet service providers or search engines, are only permissible to the extent that they are compatible with paragraph 3. Permissible restrictions generally should be content-specific; generic bans on the operation of certain sites and systems are not compatible with paragraph 3."*
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> *Human Rights Committee, General Comment No. 34*