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Report from the panel discussion on "Reconciling State's Interest With a Digital Life"

Software Freedom Law Centre (SFLC.in) in collaboration with Live Law hosted a panel on August 4, 2020 to commemorate a year of communication blockade in the Union Territory of Jammu and Kashmir. The panel on "Reconciling State's interest with a digital life" was centred on the growing spurt of Internet shutdowns in the paradigm of national security, misinformation, censorship, content takedown and encryption, and further extended to discussing a roadmap for communication freedom in Jammu and Kashmir.

In attendance:

The panel was laced with eminent dignitaries which included Manish Tewari, Member of Parliament and Lawyer, Prof Manoj Jha, Member of Parliament, Dr Gulshan Rai, Former Chief Information Security Officer (Prime Minister's Office), Ms. Anuradha Bhasin, Executive Editor, Kashmir Times, Mr Faisal Farooqui, Founder of Mouthshut.com, Ms. Sairee Chehal, Founder of Sheroes.

The panel was moderated by Ms. Mishi Choudhary, Founder of SFLC.in.

Individual remarks by speakers:

1. Mishi Choudhary: Stressing on the recent erosion of social contract in the light of the continued Internet ban in Jammu and Kashmir, followed by the resistive attitude of the government in restoring high-speed Internet in Kashmir during a pandemic, Mishi Choudhary expressed the need for authorities to take a different approach that would primarily place relevance on protecting people's lives without hindering their freedom of-speech. She addressed the fact that notions of security and national ideas are being increasingly attached to private conversations which is not ideal for a democracy.

2. Manish Tewari: Ideating on the fact that the Internet was the most audacious experiment in anarchy, Manish Tewari pointed that the experiment succeeded and it today represents the largest ungoverned space on our planet. Tewari expressed surprise towards the fact that never before in history has so much power resided in just finger-tips. "The future of human civilization lies at the intersection of a brick and water", remarked Tewari, adding that this phenomenon has its pros and cons. The world today is conceived to be borderless because of the presence of the Internet and this has created a unique paradox wherein the physical civilization and virtual civilization rarely interact. Tewari went on to speak about the double whammy of a virtual and physical shutdown in Kashmir which has led to mounting educational and economic losses and asserted that attempts to bring Kashmiris into the mainstream have been hit by the attempts to revisit history.

3. Gulshan Rai: Elaborating on the idea of advanced nuances involved in technology today, Rai pointed out that technology is a multi-edged sword and continuously evolves. Rai spoke about how encryption and hiding have become the more prevalent mode of communication. "Technology gives a lot of useful objectivity, productivity and efficiency", Rai remarked, but the emergence of several geo-political issues has made the situation more complex. Citing the example of the recent pandemic, he pointed to how the World Health Organization (WHO) and China haven't shared COVID-related data. He addressed the fact that no State is interested in checking the misuse of technology because it gives them a leverage over the other States. Rai stressed on the need to put appropriate measures in place as technology plays a deep role in impacting the daily fabric of the people.

4. Manoj Jha: Addressing the concerns specific to Jammu and Kashmir, Jha remarked that J&K is being dished out with step-brotherly treatment and the government needs to decide whether its ambitions are limited to the place or extend to the people. He expressed disappointment at the delay in the Supreme Court's hearing of the constitutional challenges to the J&K Re-organization Act and the need to address this as a civi

lizational question. He highlighted the human cost of the shutdown alluding to the data released by Kashmir Chamber of Commerce which pegged the cost at 40,000 cr. Jha stressed on the need to have a policy revamp as with or without Internet, the happenings in Kashmir are being watched worldwide.

5. Anuradha Bhasin: "I come from a region which is the most complex in the world", said Anuradha Bhasin at the start. She argued that the reasoning of the Internet being shut down in the name of security and national interest is flawed as it is based on a principle of inequality and a tendency that erodes the fundamental rights of the people. Bhasin talked about how the effect of taking away the special status of Jammu and Kashmir was said to be that people were going to become equal citizens and be integrated with the rest of India but Kashmir continues to face a shutdown one year later. Bhasin stated that there is no political structure in place, the economy is in shambles, and every sphere of life has been impacted.

6. Sairee Chahal: Sairee argued that the Internet is an enabling tool and no longer a luxury. She stressed that the Internet is a huge enabler for the disenfranchised, and for those with less social or financial mobility. She further added that pandemic has further increased the need to have working and high-speed Internet connections.

7. Faisal Farooqui: Farooqui spoke about the larger paradigm of Internet shutdowns taking place across the country in recent times, and sometimes for reasons as trivial as preventing cheating in exams. He pointed out that democracy cannot be trivialized in a reckless manner and that empathy should drive the policy discourse. He added that the dream of a $5 trillion economy would not be envisaged in a space with constant Internet shutdowns.

Q&A session:

1. Manish Tewari on oversight of intelligence services: Tewari said that every statutory institution of the government must be underpinned by a proper legal foundation. Referring to how the Data Protection Bill received a significant push back from the state, he pointed to how Indian state is allergic to any kind of judicial oversight. Tewari noted that the legislature has failed to address concerns related to such over-arching measures of the state and hoped that Intelligence Service Powers and Regulations Bill 2020 will be debated in the Parliament to address this concern soon.

2. Sairee Chahal on women safety laws: Sairee expressed regret at the fact the all the attention goes towards the woman in question and less accountability is secured on the side of perpetrators. She suggested public registries and data sharing on various platforms to address this.

3. Manoj Jha on the rules of politics within the domain of the Internet: Jha said that surveillance should be an exception, and not a pattern. He remarked that when it becomes a pattern, it becomes an instrument for tyranny.

4. Gulshan Rai on the law regarding data and privacy: Rai said that political parties need to first develop consensus on core issues like National security, surveillance aspect, interception and foreign policy and the larger questions of data and privacy can only be explored thereafter.

5. Anuradha Bhasin on the ground realities regarding Internet shutdown in Kashmir: Bhasin remarked that the apex court judgment in the Internet shutdown case did come on a positive note but the order wasn't entirely implemented as it had certain ambiguities which the government leveraged. Bhasin also noted that the order came too late considering that a fundamental right violation was involved. She further added that Kashmir is becoming a testing laboratory for the rest of the country.

The panel saw a wide-ranging discussion around Internet shutdowns and its allied effects on freedom of speech, surveillance mechanisms and the larger question of the treatment of citizens in a free and democratic country. The panel objectively pointed out to the growing concern of targeted attempts to hit the free speech quotient of citizens with the brick of state security. The panellists expressing their individual opinions also addressed the legacy of the Internet and its evolution into an instrument of access. The event concluded with the question and answer session where the moderator furthered the discussion points with certain intricacies.