

Day 2☐ | Session 3: Error 403: Access, telecom policy and network shutdowns

Date: Tuesday, 21 September 2021 [3:30 am - 5:30 am UTC]

Resource Persons: Edmon Chung & Damar Juniarto

Access to the internet is intrinsic to exercising other rights. The digital divide between urban and rural areas has significantly impeded the ability of all people to tap the potential of ICTs. While most access to the internet has been provided by corporations, either state or privately owned, the space for democratizing ICT infrastructure is far from being realised in Southeast Asia. Nations, particularly emerging economies, rely on equitable access to digital infrastructure both for economic growth and welfare. To facilitate this, countries have instituted a variety of laws and policies that enable both private and public vendors to carry out these services, although some of these policies have been criticised for unduly disenfranchising communities who need it most. With the highest number of network shutdowns and significant gender-based digital divide, several sections of society remain discriminated against in being able to obtain meaningful access to the internet. However, there have been positive developments in the region, including recognition of access as a right and pronouncements that recognise the importance of access.

The first part of this unit is designed to help understand meaningful access and the regulatory framework, including laws and policies, that enable access to the internet or connectivity. Participants will be exposed to international discussions and jurisprudence from the region that recognise the significance of access. The second part of the unit will focus on the unique problem of network shutdowns and its consequences. Participants will be familiarised with laws and regulations used to impose government-mandated disruptions of internet access. This part of the session will provide participants with a factual primer on network shutdowns to appreciate the legal challenges and evolving jurisprudence on the issue.

Key points of discussion on access and telecom infrastructure:

- What is access?
- What are the kinds of regulations and laws that govern access to the internet?
- What other laws and judgments from the region impact access?
- What laws and policies impact the democratisation of internet infrastructure including the setting up of community networks?

- Is access to the internet receiving growing recognition as a legal or fundamental right? Why?

Key points of discussion on network shutdowns:

- What are internet shutdowns?
- What laws, justifications, authorities and means are used to impose them?
- What are international bodies saying about internet shutdowns?
- What have courts said on the issue of internet shutdowns?

Reference materials:

1. Table 3 - Laws and regulations governing the ICT ecosystem in Southeast Asian countries
2. Table 4 - Resources and databases on ICT and jurisprudence
3. Table 5 - International human rights law landscape

Suggested readings:

1. APC, Redes A.C., Universidad Politécnica de Catalunya, *Expanding the telecommunications operators ecosystem: Policy and regulatory guidelines to enable local operators* (September 2020)
2. Aayush Rathi, Arindrajit Basu and Anoushka Soni, *Dialling in the Law: A comparative assessment of jurisprudence on internet shutdowns* (November 2020)
3. Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, *Ending Internet shutdowns: a path forward*

Additional readings:

1. Ritu Srivastava, *Mapping the regulatory environment of community networks in India, Myanmar and Philippines* (August 2019)
2. [Podcast] Chips with Everything podcast, 2020, *Turning off the internet*, The Guardian

 Edmon Chung - Session Presentation

 Damar Juniarto - Session Presentation

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