

Resolution proposed by IT for Change to Janta Parliament Session on Technology and Surveillance

August 18, 2020

TOPIC / SUBJECT - A Framework Law for Digital Rights

Having regard to the fact that

- 1) under surveillance capitalism, the internet and digital technologies have led to unbridled state and corporate power, jeopardising individual and collective autonomy, producing a crisis for civic-political freedomsⁱ ⁱⁱ and socio-economic rights,ⁱⁱⁱ ^{iv} that has deepened in the COVID moment^v
- 2) the sweeping powers of the state in the Draft Personal Data Protection Bill are untenable
- 3) the absence of a people-centric, rights-based governance framework for digital, data and such frontier technologies has intensified human rights violations in the development and use of these powerful new technologies; and led to the corporate and state capture of their benefits^{vi}
- 4) digital technologies are the critical infrastructures of tomorrow, whose evolutionary path will determine if and whether India's transition to the digital paradigm will promote democracy, development, peace, equity and social justice^{vii}
- 5) data and digital intelligence are 'societal commons' from which all citizens have a right to benefit equitably^{viii}

This House urges upon the Government to

- i) Initiate the process of evolving through bottom-up, participatory consultations, an indivisible and integrated approach to digital rights,^{ix} protecting and promoting people's rights to personhood, dignity, equality, privacy, and self-determination, and furthering social and economic justice.
- ii) Introduce a "Framework Law for Digital Rights" – establishing principles, guarantees, rights and obligations for a people-centric governance of digital, data, AI and related frontier technologies.
- iii) Ensure that the Draft Personal Data Protection Bill is built on the first principles of such a framework law, effectively tackling state and corporate incursions into privacy and preventing unauthorised and harmful processing of data.
- iv) Set up an autonomous constitutional authority for digital rights to enforce, and address violations of, such a framework law, that is independent, transparent and accountable to the public.

- i Big Tech, in its quest to preserve market interests compromises civic-political freedoms by turning a blind eye to group discrimination. For instance, Facebook's lax implementation of its own content policy to permanently ban "dangerous individuals and organizations" from its platform in order to protect its market interests in India has led to the proliferation of hateful speech threatening the civil-political freedoms of minority communities. <https://www.wsj.com/articles/facebook-hate-speech-india-politics-muslim-hindu-modi-zuckerberg-11597423346>.
- ii The rise of the surveillance state in India has severely compromised internet and media freedoms. While surveillance technology has proliferated in India over the last decade, institutional and legal safeguards have not kept pace. <https://www.foreignaffairs.com/articles/india/2020-02-19/indias-growing-surveillance-state>. Datafied welfare systems of the state have also compromised privacy by failing to effectively balance the imperative of transparent and accountable beneficiary identification and entitlement allotment processes with the need to preserve informational boundary management rights of beneficiaries in food rations and employment guarantee programmes. <https://scroll.in/article/970200/the-jan-soochana-portal-a-test-case-for-balancing-privacy-and-transparency>
- iii Data extractivist business models also erode socio-economic rights. The Confederation of All India Traders have raised their voices on multiple occasions about predatory practices by e-commerce companies <https://www.bloomberquint.com/business/traders-body-cci-discuss-unethical-competition-by-e-commerce-firms>. Automated pricing and algorithmic reputational management systems of on-demand service platforms have compromised workers' rights. <https://factordaily.com/gig-economy-workforce/>.
- iv The Indian state has failed to put in place effective measures to counter exclusion errors in datafied welfare systems that exacerbate marginalisation of citizens from vulnerable social locations <https://www.thequint.com/videos/news-videos/one-year-after-sc-aadhaar-judgment-exclusions-benefits-jharkhand-odisha>
- v At the height of the COVID crisis, the central and state governments launched a plethora of health surveillance apps without any overarching governance framework. <https://sflc.in/our-analysis-indian-covid19-apps> Intrusive workplace surveillance measures by platform companies also intensified during the COVID crisis, as revealed by research interviews conducted by IT for Change team with functionaries of the Indian Federation of App-based Transport Workers. Mandatory installation of Arogya Setu on worker phones despite a government clarification about the app download being purely voluntary being a case in point.
- vi In October 2019, the UN High Commissioner for Human Rights observed: "The dark end of the digital spectrum threatens not just privacy and safety, but undermines free and fair elections, jeopardises freedom of expression, information, thought and belief, and buries the truth under fake news [...] As the digital revolution continues to unfold, the use of technology for both legitimate and illegitimate purposes will increase. States and businesses are already using data-driven tools that can identify individuals as potential security threats, including at borders and in criminal justice systems. Artificial intelligence systems assess and categorize people; draw conclusions about their physical and mental characteristics; and predict their future medical conditions, their suitability for jobs, even their likelihood of offending. People's profiles, "scoring" and "ranking" can be used to assess their eligibility for health care, insurance and financial services. So alongside the human rights abuses I've described, we find a whole new category – this time not necessarily deliberate, not the result of a desire to control or manipulate, but by-products of a legitimate drive for efficiency and progress [...] At its best, the digital revolution will empower, connect, inform and save lives. At its worst, it will disempower, disconnect, misinform and cost lives. Human rights will make all the difference to that equation." See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25158&LangID=E>
- vii Building on the UN Secretary General's Roadmap for Digital Cooperation released in June 2020 <https://undocs.org/A/74/821>
- viii Refer the Digital Justice Manifesto released by the Just Net Coalition. <https://justnetcoalition.org/digital-justice-manifesto.pdf>
- ix In December 2013, the United Nations General Assembly adopted [resolution 68/167](#) affirms that the same rights that people have offline must also be protected online.