

# ITEC

## Newsletter

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### EDITORIAL

#### Women in IT - Two sides of the same coin

The software industry has contributed much to the confidence of women at work place. Advances have been made with regards to gender equality and financial independence of women in the software industry, considering the condition of women workforce in other industries. Women constitute 37% of the workforce in Indian software industry. Greater use of technology, exposure to modernity, lesser or negligible reliance on physical strength to carry out the work are the distinguishing factors which has made this possible, along with higher salaries compared to other traditional industries.

But workplace sexual harassment is a major concern for women. As many as 125 cases of sexual harassment involving different IT companies have been registered with the Karnataka State Commission for Women over a period of eight months in 2011. An Industry Survey result reveals that 88% of the female workforce working in Indian Information Technology and BPO/KPO companies reported having witnessed some form of workplace sexual harassment during the course of their work. Still worse, 83% never report and 91% fear victimisation. After a Supreme Court judgement in this matter, procedures for the resolution, settlement or prosecution of acts of sexual harassment are added to the Standing Orders. But the saddest part of the story is that the software industry has been exempted from the act for the past eleven years.

#### What is a Standing Order?

By Industrial Employment (Standing Orders) Act, 1946 all establishments are required to define with sufficient precision the conditions of employment under them and to make the said conditions known to employees. Standing Orders are the rules of procedures or conditions of employment in an establishment. Standing Orders bring transparency and mutually accepted procedures in work place. Absence of certified Standing Orders makes room for unscrupulous procedures - a company can have their own random firing procedures, employees do not have a say in the working conditions or even company can violate their own standard set of procedures at any time, the company can modify their conditions of work any time eg. transport, food-

### CONTENTS

#### IT/ITeS EMPLOYEES CENTER

- 1 Editorial
- 2 Updates on some of our activities
- 3 'Offside' from Jafar Panahi
- 4 Conversation with Mr. Prakash Belawadi
- 7 Research Brief on 'US Outsourcing Bill'
- 9 "About the walls which still remain"
- 10 The invisible censorship over the internet

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related, facilities etc. We are highlighting these while being well aware of the better working conditions at matured software companies.

With software industry being exempted from many of the labour laws in most of the states how do we ensure humane working conditions for the employees? The industry being special in its nature of work with least manual effort in work, defining 'humane' or identifying issues of knowledge professionals is a little complex. Working conditions at smaller IT firms and growing number of bogus companies in the industry are real issues which are rarely addressed. Exemption of software industry from the legislation on Standing Orders expired on 25th of last August. Karnataka State Women's Commission has already raised objection to extend the exemption given to the industry in the context of increasing number of complaints on women being terminated from service in software companies without even a proper domestic inquiry. Exemption of industry from the act creates wider circumstance for exploitation of women in the sector.

### Security and transport for women at night

For a woman right to work is related to right to life as well as right to equality. Restrictions to work for women during night were implemented to protect women from exploitation. Changing times and technology and risen thoughts of self reliance and individuality have made women to ask for their right to work during night. Employment of women in the night in software companies is allowed subject to the condition that companies should provide facilities of transportation and security.

Questions related to the extension of working hour deadline from 8pm to 10pm are primarily of security and safety of woman employees in the industry. The only advantage of extending working hour to 10pm will be to refrain oneself from the responsibility of providing transport and security to women employees and save expense spent for that purpose. Bangalore is next only to Delhi in recorded crimes. The rate of cognisable crimes against women in Bangalore is 27.6, as against the national average crime rate of 22.6 for 35 mega cities. In the context of increasing crime against women in Bangalore, instead of tightening up security measures taken to ensure women employees' safety the attempt to extend the working hour deadline is highly deplorable.

Software industry has been an opportunity for women to express her identity and tell aloud that she is not behind anyone by ascertaining her independence and individuality. But this larger participation in work force has converted to only 4% presence in top level management. At a time when all the institutional help must be ensured in support of women employees in software industry certain tendencies contrary to the spirit should not be entertained. ITEC has been strenuously and continuously raising these concerns with Labour Department and IT ministry and have pleaded the government not to heed to request for further exemption of software industry from Industrial Employment (Standing Orders) Act as well as extension of working hour deadline for women.

## Updates on some of our activities

### Updates on ITEC's Activities on Employment Fraud

A Convention was conducted on Nov 26th, 2011 at Govt Secretariat Club, Cubbon Park which was inaugurated by Assistant Commissioners of Labour, Karnataka. The Convention had talks by experts followed by open discussions and a documentary screening on the Employment Fraud issue. The Convention ended with the formulation of a memorandum with a set of demands to the Karnataka Chief Minister. Detailed report of the Convention can

be read from here - <http://www.itecentre.co.in/node/100>.

As planned ITEC members went to meet the CM but instead we could meet only his office secretaries who kept a copy of our memorandum and asked us to first meet the IT minister. Since then, for around 2 months, ITEC members are trying to meet the IT minister and are in touch with his personal secretary without any success. Recently we met the IT Principal Secretary who took our memorandum and assured help while

stressing the point that he cannot do much on this. ITEC has decided to take this issue forward at different levels by highlighting this issue in visual media and creating awareness among larger public and among the officials, giving technical training and career guidance to the affected employees, continue putting pressure on authorities to get justice for the affected employees etc.

### Annual Meeting of ITEC

ITEC conducted its annual meeting which reviewed its past year activities thoroughly, identifying the shortcomings and the corrective measures for those. Around 50 members attended the meeting and came out with a comprehensive plan for the coming year. The plan for the coming year includes expanding the

Cultural activities to theatre, music bands, art, photography, conducting a study on IT/ITeS Industry in general and the conditions of contract/BPO employees, areawise activities like sports, discussions, campaigns in some of the major areas in Bangalore like BTM, Marathahalli, Hebbal, Vijaynagar, Koramangala, Banshankari etc.

ITEC Appeals to all IT/ITeS Employees to be part of the ITEC Activities of 2012 for building a IT/ITeS Community and also for the welfare of the general public.

Detailed Annual Report can be found here - <http://www.itecentre.co.in/node/104>.

## 'Offside' from Jafar Panahi

by Ravi Shanker

ITEC launched its film club by presenting an intriguing film – Offside directed by the Iranian director Jafar Panahi. The film was different on various counts and was a fascinating experience. It says how the clergy and the social framework call Offside against a free thinking person when she/he moves freely in order to score a goal. The film easily connects to a person from a third world country where the social oppression is deeply embedded in the social framework and in the public psyche.

I was attracted to the show by the short description about the director given by the organizers. The director, Jafar Panahi was put in jail for two years and was banned from all creative activities for twenty years on account of his fight against the undemocratic practices against the Iranian political system and clergy. Irrespective of the detaining and the censorship of his creative activities by the fascist regime, Jafar Panahi's continuing fight against the establishment is awe-inspiring.

The film throws different questions on democracy, freedom, sexual equality, harassment, LGBT rights (in a lighter sense) and compels us to think. It is taken in an amazing pace and one may expect a violent scene would break and gulp us in any moment. But with amazing quality and focus, the director reveals the anti-democratic, anti-woman and inhuman nature of

the society in detail and in a breath taking way.

The movie starts with an old man searching for his niece who went for watching the crucial world cup football selection round matches between Iran and Bahrain. The old man's intention was to find out his niece and bring her back from the football stadium. One may ask why? Here the director introduces us to a series of regressive practices followed in the Iranian society.

- Women should not participate in many public activities (In a scene we are made aware that they are not even allowed to go to cinemas or dining outside)
- If she is indulging in above activities, then it should be under the guidance of her father or brother or any other close relatives. This is intended to 'protect' her.
- The State takes the responsibility of this 'protection' to next level by providing adequate infrastructure. Army, police and the whole state apparatus is committed to ensure that the woman is not indulged in any 'unholy' practices.

All these may appear so weird to anyone who has some democratic leanings. However the Iranian public psyche is convinced on the idea that women are not equal to men in all respects and they are someone who should always be 'protected'. The director brilliantly communicates these prevailing values of the Iranian society in scene by scene delineation. Absence of a

single woman in such a big football stadium and unavailability of a toilet system for women are puzzling. Conversation between the tall Tehranian girl and the army personnel about the inhuman ideology behind the treating of women as sub standard citizens is touching. Each male character, be it a co-traveler or a police man or Iranian youth, or the old uncle ,we encounter in this film firmly believes and is genuinely convinced about the superiority of male over female, and their 'duty to protect the females'!

The rebellious nature of the girls and attempts to dare the suppressive system is some what thrilling. They constantly make fun of the state and its attempts to 'protect' them. Body language of each girl in the picture was quite clear. "See I am a human being who can think and act independently. I know who are 'you', your 'intention', and I do not want any of you fools' 'protection'". As the famous Kannada film director, Prakash Belwadi, who inaugurated the film club says, Jafar Panahi makes fun of the perception of the society on the perceived behavior of a particular sex. Director's choice to develop this story around football, the striking body language of Tehranian girl who smokes and interacts smartly with the police, the girl

mocks herself as an accomplished football striker, the boy who is continuously made fun by others for having timid and lesser assertiveness are on these line.

The social framework depicted in the movie is quite depressing and the audience could feel the injustice in every second, pushing him/her to the edge of the seat. The film illustrates how the social system is developed to suppress certain sections of the society, irrespective of their brilliance and smartness.

One can easily find Indian social system is not far superior to the Iranian. We can find lot of similar regressive practices in Indian society. Honour killings, dowry deaths, suppression and harassment at various levels, inhumane treatment to LGBTs are direct instances. A close examination may reveal that India has not moved further from the infamous (Manu)smrithi days that "Women do not deserve freedom". At any time, one can find millions of brilliant, smart girls are being 'protected' by husbands and sons!

## Conversation with Mr. Prakash Belwadi

by Krishna Kumar & Arun Ramachandran

In spite of his very busy schedule, Mr. Prakash Belwadi spoke to us for more than an hour and a half. The conversation began with his movie – Stumble, which is mainly about two IT professionals who lose their job during the dot-com bubble. This movie which was his debut movie won him the National Film Award for the Best Feature Film in English in 2003. The conversation then shifted to the effects of globalisation on Indian cinema, his interests in theatre and the general trends in Indian cinema.

We feature this interview in two parts, the first of which we have published here. A lengthier version of the interview can be found in our website – (<http://www.itecentre.co.in/node/103>)

**KK:** What is the motivation or idea behind a movie like Stumble which mainly talks about the problems in the IT sector in India?

**PB:** The canvas and setting is the IT sector, but the

story is about middle class greed. In the movie, it was only the younger generation who were in IT sector. About the parents of the characters who worked in the IT sector, one of them worked in a bank and the other had made an investment into a mutual fund. It was an attempt to capture the mood of the time when our middle class thought that there was a way to connect to the Global Economic boom or the so called boom. Our first thought was not that we would make a film out of it, but the only effective way to do it was either on TV or through a film. And in TV there is no opportunity to make a 1 hr or 2 hr feature.

**KK:** Have you screened the movie among the IT crowd during that time?

**PB:** We didn't make an outreach to the IT community at all. We just venued it like any other film. But I dont think the IT industry responded to it so well. Even those who came to see it, did not really think it is a serious problem to lose jobs and felt it is easy to get a



job elsewhere. However, globally things have not turned up so well. So I think they realised how hard it is when one loses his/her jobs. Especially in the US, because there is a character in the movie, who loses his job and can't even accept after coming here that he doesn't have a job. Now it is more in the open. People do admit to what difficulties they face there. But at that time there was frenzied confidence about making money.

KK: Still people have that thought about jobs even after the 2008 recession.

PB: That is because somehow the bad mood of the world has not shown itself here in India to the same extent. The Indian economy was somewhat protected thanks to the RBI and its wisdom. It is very difficult to tell exactly what is the vitality that the IT economy displays inside the Indian economy. Let's say the IT industry in Bangalore gets angry with the Government and they shut down and do lay-offs for a year. I don't think it is going to electorally bother the Government here. Firstly, because they are not a big part of the population and very less important electorally. Secondly, what is going to happen to Bangalore immediately? Let us say the big companies shut down or Electronic City just closes shop. What is going to happen basically? I think property prices will drop. Rates will become cheaper. Roads will be less crowded. That is what will show up first. And the end of the year you can say Bangalore economy is growing slower. But exactly what does it mean for the people who are not in the IT/ITeS? It doesn't mean anything to them. Because they are not great beneficiaries of this.

I predict that there will be bad days ahead. My entire interest in Stumble was this. This trickle down effect where they say when one section makes a lot of money, the whole society is going to benefit, I am sorry I don't think it's true

KK: In your movie, in the last part we see that the employees are falling back to the same trap. Employees who suffered a lot are getting back to the same fate. Even though they are cheated, nobody seems to be protesting.

PB: I am actually quite impressed to see that you have asked this. You have to be a little sensitive to pick that up. I am not being cynical. It's a comment on young people that they do not undergo a moral

transformation from this at all. The lesson that they have not learnt is that we must have a connection to society outside profiting from it. There should have been a moral transformation. But when you do a contemporary story, you would be telling a lie if there was a moral transformation. Ten years from then, we are here now. It is not true even now. They have not changed.

When you do something that connects with your society, then you have a story of change. Till then you will only have a story of exploitation.

Arun: When do you think the tipping point will come where we will get a story of change?

PB: I think the elections in the 5 states now, is a crucial beginning. We need to see what the public mood is. There is a tendency in TV to say that the Team Anna is deflated and they are not going to make the same impact again. That is not the point. Indians who came to the street, do they feel frustrated? That is the point for me. If they were moved enough to go to the Ramlila Maidan, to Jantar Mantar, or to Freedom Park, and they saw what happened in the Parliament. They felt insulted. And they think – look we are going to vote now, and even if that is a 1% change, it is a very big change. Then this will be the first great movement against traditional ideas of caste and quotas and religion.

There is a big change in the way corruption as an issue is addressed. Mayawati has sacked 20 ministers in the last 6 months. BJP's Kushawaha, suspended himself. Everyone is conscious of this corruption issue. But the political parties will also watch. They will see if it makes a difference in the ground level during voting. If it does make a difference, I am telling you the tipping point has happened. The whole way of fighting elections will change. Even if it doesn't show in the five elections this time, I think the issue of accountability, and an ethical deficit in the way India works has been acknowledged. So I am saying that the conditions are ripe for the tipping point to happen. The objective ground for that is now ready.

The political system is exposed. It is probably the lowest level of credibility for the system of governance, bureaucrats, politicians, even the judiciary is up for public scrutiny at the moment. I think the

tipping point will come now. Is it reflecting in the media is a question. No the media sees this as a drama being played out. If the story changes, they will change again. They will shift the story to say – What is wrong with the Indian Cricket Team. We have to wait this out. There are no movies like that, there are no newspapers like that. There is nothing like that.

**KK:** Moving on from Stumble, we film followers see that there is a dip in the artistic value of movies lately. They are tending to move away from real issues of the country, especially in the last two decades. Why do you think this has happened? Is globalisation just a coincidence?

**PB:** We are in a different stage of history and am sure globalisation has had a major impact. But we have had a loss of aesthetic is the way I would describe what you say. What is the idea of the aesthetic? To be conscious of the experience of beauty is aesthetic. Aesthetic is not an external idea, aesthetic is always an experiential idea. I would compare it to the unaesthetic for instance. The aesthetic enhances or sharpens your awareness to beauty or the experience of beauty. You experience beauty and you are aware of it. Now there is a dip in that, that is the problem. Why does that come? This is a discourse free country. Nobody talks about anything important here.

There is this idea that beauty does not matter. I am choosing the word beauty in the idea of the aesthetic. Not in terms of good looking. You can show a film which shows horror, but it can be a beautiful film. Although Gurudutt made films for the masses, although Shakti Samanta made films for the masses, they tried to make their film well. But now the idea has become explicit that beauty does not matter. Which is why, a person can go about announcing that he is making a film called Shivaji and the mass waits for it and he has made the film in the ugliest possible manner, the mass goes and sees the film. It is like an orgy of enjoying it.

It has become an attack now, if you say a film is not beautiful. It is just like One Day cricket or T20 cricket. I am not against it, but the idea that it becomes pure consumption and there is no beauty of the game itself is a big problem. What was good about test cricket is not a matter of just artistry. It is a play of human character and even that has given way and does not

matter at all. And it is bad to reduce it to saying – People don't have time now for all this.

The consumption frenzy is such that the trend is to go to Shoppers Stop and buy stuff to look good, that gives you a sense of well being. You are doing that for acceptance. You are not doing it for beauty anymore. It does not matter if pink is a colour that does not suit me. But if 40% of the highest paid executive in our city wears pink, I will also wear pink. It has become like that. Acceptance has become a simple, overwhelming measure of success. And beauty has been compromised. What will be the consequence of this? The consequence will be that we will lose the ability to tell good from bad and that point has reached now.

**Arun:** On a related note, in this era, if we take movies as service, it can be of two types – consumer driven where consumer demand is measured and a service is delivered to cater to that and supplier driven where the creative skills of the person who makes the film is the most important factor. These days we see a trend towards a consumer driven approach in movies and arts. Do you see this as a positive thing?

**PB:** The question becomes a big one when it comes to things like movies because there is an obvious commercial aspect to it. You never ask this question to the performing arts. But if you make a movie, you can make a copy of it. You have got this replicability and scalability aspect to it. You can show it in a bigger screen, more people can watch it. You can broadcast it to many homes. That is the scalability. That is where the commercial aspect comes.

Now that you have asked that question, filming is addressed in India, even critically speaking, even the people who are called the critics of cinema, they address only one side of it - the narrative side. The story is told well or is not told well. This guy has acted well or not acted well. Cinematography is good or is not good. Even that form of criticism doesn't exist anymore. But wherever it exists, that is what it is limited to. The other form of criticism is whether it worked or it didn't work.

However film has another great value that it brings from inside the form. How does film work? It is by putting one image next to another and the presence of one image next to another in that sequence, in a

timed sequence, creates a story. A skilled person can use that to create a narrative, but regardless of whether you are skilled or not, just the placement of those images will create a narrative. Even bad cinema is creating narratives.

But my point is, there is an interventionist part of the film enterprise. It means you place the camera somewhere and you record some images. Once the image is recorded, whether you edit it or not, you are committed to saying something. Whether a film should have a message or it should not have a message is a bogus debate. It is a constructed thing. It can only have a message. It cannot be free of it. Because it is not a value neutral thing that you do at all. Even the cameras placed at the 200 junctions of the Bangalore city is not value neutral. When a vehicle stops in a junction, you can record numbers. The construction of the frame, the choice of the frame is pre-meditated. You cannot say this is action that happens randomly. When you make films, you are actually intervening with reality, interfering with it and altering it to some extent. Even the audio recording device is an intervention.

The camera is a far more frightening intervention. People will again shake hands to perform for the camera. They will take out the garland and put it again, because the camera missed it. It is a reality altering mechanism. It is a strange thing, for a person the

ceremony of putting on a garland, the truth of it and the real experience of it in front of a crowd is less important than the framed experience. So to say that we make films for the people to consume, to me is like having a discussion of whether we should have democracy in India. We already have that. You are making films only for the public. You are not doing anything else actually.

Everybody, the film maker who makes films to entertain the masses, the film maker who makes the film saying I did it only for myself, is acknowledging the fact that the presence of the visual recording device is a reality altering idea firstly. And secondly, when it is played out it is reality altering. Suppose we make a film and the screening of the film leads to a riot. The recording act is obviously altering reality. Is the screening act going to do that is what you wonder about. It is the same concern that both sides have. Whether the film that I make is going to please the audience with a happy ending is one side and whether the people will see the film and go and make a revolution outside is the other side. Both of them hope that it moves the public in a certain way.

*The second part of this interview would be covered in the next edition of the Newsletter.*

## Research Brief on 'US Outsourcing Bill'

by Secki P Jose

### PROPOSITION

Senators (Legislators) from the United States of America's (USA) Democratic and Republican parties propose a legislation to curtail call center outsourcing by introducing a bill that would specifically identify and deny government benefits to any company that moves its call centres overseas.

### CONTEXT

With the increasing number of job losses in the US economy, the "US Call Center and Consumer Protection Act (HR 3596)" aims to reduce the support system for firms that ship jobs outside the USA. The bill is specifically to "require a publicly available list of all employers that relocate a call center overseas and to make such companies ineligible for Federal grants

or guaranteed loans and to require disclosure of the physical location of business agents engaging in customer service communications."

### THE BILL AND THE CWA

The US Call Center and Consumer Protection Act was introduced in the US Senate by Senators from both the Democratic and Republican parties (1) on December 7, 2011. This is therefore a bi-partisan bill introduced by members of the two parties that dominate the US legislature.

The bill itself stipulates the following -

- a) A company relocating its call-centre outside the US should report 120 days before doing so to the relevant authorities
- b) A publicly-available list of companies that have

relocated their call-centres outside the US over the previous 3 years

c) A company on this list would be ineligible for any direct or indirect Federal grants or Federal guaranteed loans for 5 years

d) The employees would have to disclose their physical location at the beginning of each company initiated customer service communication and a customer should be transferred to the US if they request it at any point.

This bill was immediately supported by the Communication Workers of America (CWA) which is a Union of Services sector workers and claims to represent 700,000 workers in telecommunications and other sectors of which over 150,000 are customer service professionals. On December 15, 2011, the CWA released a report (2) emphasising the dangers of outsourcing work to countries outside the United States where there is less regard for data privacy laws. It also highlighted some dubious practices followed by outsourcing firms with regard to financing within the USA.

#### INDIA AND THE CWA REPORT

In 2011, India was surpassed by the Philippines as the largest employer of international call centre workers (3). The Philippines now employs over 350,000 people compared with India's 330,000. However, it must be kept in mind that Indian companies have a considerable presence there as well.

It is therefore no surprise that India and the Philippines feature prominently in the CWA report. India in particular comes in for scathing attacks with regard to the numerous data breaches that have occurred in call-centres over the years. The instances of confidential data and money being stolen through Indian call-centres have been documented and highlighted in the report. It also raises pertinent questions about sub-outsourcing (where the work outsourced to India is further outsourced to countries like Philippines, Egypt, Mexico etc) and the regulations in countries where work is being sub-outsourced to.

The CWA report also points out some of the incidents in the US where individual towns had taken out loans to give incentives by way of infrastructure, land for free and given other incentives for companies to provide call-centre related employment there. The

town/municipalities had hoped to recuperate the loans through taxes. The companies however would close down operations after 5-6 years leaving the towns in debt to banks - not to mention a total loss of jobs.

#### CONCLUSION

This bill is specifically intended for the call-centre industry. Unemployment rates, job-loss and data privacy are sensitive issues within the US at this point of time. With the Presidential elections coming up in 2012, it would be unsurprising to see these topics being raised with higher frequency. In the case of a majority of outsourcing, there is no new job creation - it is merely a transferring of jobs from one geography to another - whichever the business deems best. It is thus problematic in the sense that where one community gains - another community loses, and must therefore be thought out in detail. The bill, at present, has been introduced into the US Senate where it then needs to be approved by the House Committee followed by a House vote, then a Senate vote and finally signed by the President in order to become a law.

#### NOTES

(1)

[http://www.computerworld.com/s/article/9222561/Of\\_fshoring\\_comes\\_under\\_bipartisan\\_attack\\_in\\_Congress](http://www.computerworld.com/s/article/9222561/Of_fshoring_comes_under_bipartisan_attack_in_Congress)

(2)[http://www.cwa-](http://www.cwa-union.org/news/entry/cwa_study_exposes_overseas_c)

[union.org/news/entry/cwa\\_study\\_exposes\\_overseas\\_c\\_all\\_center\\_risks\\_to\\_personal\\_information](http://www.cwa-union.org/news/entry/cwa_study_exposes_overseas_c_all_center_risks_to_personal_information)

(3)[http://www.usatoday.com/money/world/2011-01-10-callcenters10\\_CV\\_N.htm](http://www.usatoday.com/money/world/2011-01-10-callcenters10_CV_N.htm)

*The author, Secki P Jose is a Masters student of Globalisation and Labour at the Tata Institute of Social Sciences, Mumbai and can be contacted at [seckresearch@gmail.com](mailto:seckresearch@gmail.com)*



## “About the walls which still remain”

Adhavan Deetchanya

(translated from Tamil by Senthil S.)

"Caste is cultural capital", argues a journalist from the right. The Uthappuram wall (<http://www.hindu.com/2008/05/07/stories/2008050757930100.htm>) still stands as a symbol of shame. The South of Tamil Nadu continues to be region strongly divided on caste lines. The recent Paramakudi firing (<http://www.thehindu.com/news/states/tamil-nadu/article2742450.ece>) proves the same. Here is a poem on these continuing walls by Adhavan.

I am on this side of the wall. My name is 'human'.  
Is there anybody on the other side?

With this unanswered question.  
Me alone. How long should I wait?  
Does Atleast one amongst you hear my voice?

If you have not yet slit your voice chord  
so that you can avoid talking to me,  
do reply at least one of you.

Eager to shake-hands  
my arm remains extended  
but is it your tactics to see  
if it will grow numb and tired  
and go down on its own?

or

is the other side  
so dark and empty  
with not one  
who can say "I am there" ?

In these sad times you claim that the wall is for protection  
But you are the one protecting the wall.  
so what remains is only the verdict  
the verdict on who stands on which side

I am on this side of the wall. My name is 'human'.  
Is there anybody on the other side?

Udhar koi hai kya?  
Aakade yaratharu itharaa?  
Akade evuru unnaru?  
Appakkam aarengilum undo?  
Is there anybody?

## The invisible censorship over the internet

by Anivar Aravind

(translated from Malayalam by Ravi Shanker)

Without using the word “censorship”, GOI’s attempts to censor the internet are getting more active by the day. This goal was nearly achieved by the IT ACT 2008 and the ‘Intermediary guidance rules ‘notification. Union HRD Minister Kapil Sibal is hammering the final nails in the coffin of the internet freedom by the proposed amendments in the copyright laws and by advocating for the ‘self managing of the posts’. Delhi High Court’s notice to the 21 internet sites/companies for removing the contents from the internet sites is pouring more oil to the fire.

The spread and expansion of internet post 90s gave an amazing opportunity or a platform to discuss those subjects, express ideas and publish creative thoughts which are otherwise successfully suppressed by the print media. This expression of free thoughts from the free minds disheartened the states & many a dictators’ attempts to repress the divergent views.

Wikileaks which orchestrated the biggest information explosion, in 2010 was a magnificent expression of the uncontrolled power of the internet. To protect the interests of the governments, ‘democratic’ countries across the world started the attempts to contain, the freedom of expression (in Internet).

We saw the real warheads for and against the information democracy in 2011. US government’s attempts to debunk Wiki Leaks with the help of internet companies and banks were not fully successful due to the strong and united support offered by the internet community, supporters of democracy and freedom. When the internet acted as a main catalyst for different democratic upbringings, which range from the Arab jasmine revolution to the Occupy Wall Street in New York, all the governments across the world united in order to cripple down the unquestionable democratic right of people via the medium of internet.

### India’s control over internet

In India, discussions about the state control over the internet commenced in 1999, during the Kargil war, when the website of the Pakistani newspaper “Dawn”

was blocked. Banning of a yahoo group which is owned by a North East organization in 2003 also became a discussion among the people. After that, each terror attack is used by the GOI to control the internet and other communication facilities. In 2006, post Mumbai terror attack, 17 sites which allowed the webhosting including BlogSpot, type pad, yahoo geo site were blocked. Bloggers formed a group called ‘Bloggers against censorship’ which organized a series of strikes and demos, and thereby forcing the government to retreat this blanket ban.

Even now the section 69A of the IT act (The IT Act 2008) provides the censor rights to the government. IT Act 2008 which was passed without discussion in parliament provided the platform to censoring the internet and for filing the defamatory cases (using the provisions of the act).

Out of the 358 internet posts which has been asked to be removed (by GOI) between 2011 Jan and June, 261 were having criticising content. In this barring 6 all remaining 251 (about 71%) were deleted/ removed from the internet without any legal process! Criticising the government is not a criminal activity per se, but Google chose to remove those contents as per the government directions. Attempts to control and censor the expressions of ideas in social network were continued, and according to the Google transparency report, recently there has been tremendous increase on these censorship attempts.

One needs to read these attempts along with the GOI’s recent instructions to Blackberry, Google, Facebook of having provisions to access the content to monitor and control them. Account verification mechanism were introduced and the mandate were placed on the vendors are also part of this move.

The “Intermediary guidelines rule” which is passed by parliament without any discussion in last April provides provisions to GOI and to any citizen in India to censor the internet content. The notification allows anyone to complain to the internet service provider (ISP) against the site either by alleging that the content in the internet website is disparaging him/her

or he could prove that the content is harmful for children or the site promotes gambling. The ISP which received the complaint is bound to remove the content within 36 hours even without waiting for the consent from the website owner! For instance say, "Open Magazine" in its on-line edition, published the story line of the film "Rain Man"; someone who read this, complained to the ISP that the content is promoting gambling. The content/page can be removed from the internet in India without giving any opportunity to the "Open Magazine" or the writer to explain their position on the issue. It would be removed even from the search engine indexes, caches and internet history.

These atrocious provisions in the notification are the clear violations of the 19(1) (a) and 19(2) articles of the Indian constitution, which ensures the freedom of speech and having divergent views/expression. As the world becomes more and more information/internet oriented, these acts opens up a rather serious situation. In summary when a book or a magazine or for that context, any published work (which is currently distributed/ available via off-line bookstores) becomes an e-book, it can be unilaterally censored and be removed from the online world.

The wording "Intermediary" in this act is more troublesome. The Internet service providers (ISPs) and the web service companies are brought under this expression. These intermediaries could be prosecuted and put behind the bars if they did not act upon the complaint within 36 hours. When X sends a mail to Y, postal service is being prosecuted is an apt analogy to this funny situation!

In order to understand how these laws acts up in real situations, an internet research community in Bangalore, put together 7 cases (all these cases were trivial and are implicitly absurd) and sent to the intermediaries. Out of these 7 cases, 6 cases were accepted and got the censoring.

When a false complaint of spreading and glorifying racial discrimination was filed against a seemingly benign comment which appeared in a news story on Telangana state formation issue, the authority responded by removing all the comments reported in that story. A negative response was received, when a request was posted to a search company for removing

the first 3 search results. But in fact, it was proven that those contents were removed by the search company; even the web history was removed! This was totally unprecedented in the history of democratic India; even at the times of emergency, one has not experience such a violation of rights.

### Censorship by self controlling

Central HRD minister who conveyed a secret meeting with Internet companies in last November instructed these companies to create a mechanism to have a self control of contents. New York Times leaked this information in last December to raise a wide spread criticism and foul call from the Indian internet users, forcing the minister to revert back. However when Twitter announced to implement such a mechanism, shows that the plans to censor the content is very much in place.

The new draft of the copy right law, which is under discussion in Rajyasabha, has a newly added section 52(1)(c) creates more trouble for the internet users. As per this law, anyone can file a complaint saying his/ her copyright is violated (to the internet companies) and the company would be responsible to remove the content as soon as possible in order to avoid prosecution.

By saying giving more power to the people, government is in fact placing more provisions to implement its decisions without using the 'bad word' censorship. If this black law is managed to be passed, then death of internet is not that far away.

### The case in Delhi High Court

Vinay Ray is the 'star of our times'. When the invisible or rather visible censorship is as depicted above, Vinay Ray the Editor in Chief of an Urdu newspaper 'Akbari' attempts to bring the pre censorship of the internet contents via courts. He filed a case in Delhi High Court against 21 internet companies with 62 'evidences' for 'having' contents in these sites, which are disrupting communal harmony. The Central Government accepted to take the case and act up on it. The Delhi High Court judge Suresh Kyte even proposed 'to have a mechanism to block those contents which are against the policies of the country, similar to China'. This response was not expected from a judge who works in

a democratic country.

When Vinay Ray argued about the naked images of deities for the censorship, Kapil Sibal points out to the excessive presence of pornography and other reasons to ban them. But as per the Google transparency report, the majority of the content removal requests were against those contents which criticize the government. Only 3 requests were filed for removal on the grounds of the 'pornography' and only a single application was filed on ground of national security. As per the experiences across the world, child pornography, national security, terrorism, 'defense against cyber warfare' are the different reasons cited to censor internet content.

In summary, Internet censorship is a reality. Instead of focusing more on bringing more people to the internet usage, as per the 11th five year plan, government spends much of its energy on controlling people and censoring their internet usage. By formulating the e-mail surveillance mechanism, invisible censorship and

Aadhar implementation (which collects the biometric information of people), government is effectively building up a police state which continuously violates the civil rights, privacy and other democratic rights people enjoy. Similar to protests that have been taken up by people across the world against PIPA and SOPA rules, we Indians also have to defend ourselves and fight against these draconian attempts of our government. This is a fight that we have to win. Let us unite for that.

*(Anivar Aravind is the executive director of the Bangalore based organization named "Moving Republic" which is focused to work for the digital rights. Email: [anivar@movingrepublic.org](mailto:anivar@movingrepublic.org). Phone: 09448063780)*

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