REMARKS OF
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Good morning. It's great to be here at the State of the Net Conference. Thank you to the Internet Foundation for having me and more importantly, thank you for the work you do to foster conversation about internet policy.

This year's gathering is a special one. It marks the start of a new decade for all of us—and the internet, too. So I want to propose that we use this opportunity to reaffirm what is fundamental: our commitment to a global and open internet for all.

That might sound simple, but it's important. During the last decade the global population with access to the internet doubled and now stands at four billion. It has empowered so many to share so much information that previously was out of reach and under lock and key. And we've witnessed brave and innovative souls from around the world use this technology to speak truth to power and give voice to their communities and dignity to one another.

But we start this new decade with those rosy propositions challenged. We've learned that this formidable tool can not only bring us together but can divide us, too. Because we have discovered what is ugly—that outrage can travel online with a greater velocity than veracity. We have also discovered what is terrifying—that this tool for global collaboration can be used to disrupt democracies as surely as it can be used to destabilize dictatorships.

These challenges are real. I think we need to address them not just here at home but worldwide. But when we do, we need to ensure that the forces of reaction do not outpace our commitment to an open internet for all.

Let me illustrate why by heading beyond our borders. Because there is no better evidence of this problem than when governments respond to these challenges by turning the internet off and leaving their citizens in digital darkness. This is what I want to talk about today—the growing number of internet shutdowns and what it means for us here in the United States.

To do this I want to begin far away, in the Kashmir Valley. So imagine for a moment the uppermost corner of the Indian subcontinent. It's a place that is locked off from the world in so many ways. The southern side is bounded by one of the most striking mountain ranges in Asia. The northern boundary is formed by the Great Himalayas. It is home to snowy mountains, picturesque rivers, and the holy shrine of the Amarnath Temple. It is here that for roughly six months, India blocked internet service. This is the longest internet shutdown ever recorded in a democracy.

So just try to put yourself there, if you can. Imagine you pick up your phone. The bars on the screen flicker and then disappear, one by one. So you restart it. When that doesn't work, you start working your way down a list of nearby Wi-Fi routers, hoping for a connection. Still no luck. At this point you wonder if there's a power outage. But you look around and the lights are still on, so that can't be right. Frustrated, you put down your device and you do something you haven't done in a long time—you pick up a newspaper. And there you see it.

This was the experience of 7 million people in the Kashmir Valley when India turned the internet off on August 5th last year. Since then, the shutdown has sparked a wave of stories about what it means to have connections cut. They are tales of confusion and extraordinary accounts of economic and personal despair.

Just take one told by a journalist named Adil Akhzer, who writes for the *Indian Express*. The office of the *Indian Express* is in Srinagar, a city of more than one million. It's just across the river from Kashmir Valley's main maternity hospital. That's important to Adil's story, because it was in this hospital that his younger sister was scheduled to give birth.

You see, Adil's sister was expecting her first child, and back in August he wrote a column in his newspaper capturing the mood in his household and among his extended family. It was the usual mix of emotions you'd expect—happy, scared, curious—and all changing from one minute to the next. But above all, they were excited. The house was already filled with the tell-tale signs of a new addition: tiny clothes, diapers, toys, and more. They waited for the due date—August 26th—with bated breath.

But by August 5th, the Kashmir Valley was cut off from the internet and its residents were stuck navigating an information blackout. Their routines at work and home required epic adjustment, because the region was thrust back into an earlier era. So Adil decided that if he could not stay updated digitally, he would travel to the hospital nightly to check on his younger sister. That meant working around curfews, barricaded roads, and security checkpoints.

It was on one of those visits, on August 23rd, three days before he expected his family to gather in celebration, that he learned that his sister's child had died.

Even though Adil worked just across the river from the hospital, it still took eight hours for the news to reach him. What happened is especially sad, because it was avoidable. When the hospital staff discovered an irregularity with the baby's heartbeat, there was no way for them to alert the senior doctor—because of the communications blackout. In fact, they tried to send for him in a car, but it was too late. The shutdown prevented real-time communication with medical professionals who could have saved a life.

That's a tragic tale. But it's just one story, about one family. Remember there are 7 million people who call Kashmir Valley their home. Since the shutdown started, unemployment is up and industries the region depends on, like tourism, are down. Health care and education are suffering. Vital supplies like insulin and baby food are at risk of running out. Cash is scarce because banks and automatic teller machines are shuttered.

Still, the people of Kashmir have proved resilient. Every morning like clockwork hundreds of passengers cram into a train out of the valley for a 70-mile journey to the nearest town with a connection. They are packed so tightly that they can barely move. If all goes well, they will be back before nightfall. Kashmiris have dubbed the train the "Internet Express." It carries people hoping to renew driver's licenses, apply for passports, fill out admission forms, check e-mail, and register for school exams. This is how they keep up with modern life, thanks to the shutdown.

In the age of the always-on internet, the idea of suddenly flicking connectivity off like a switch sounds dystopian. But for so many people in so many places this is becoming a reality.

According to a report published by Top10VPN, 21 countries shut down the internet 122 times last year alone. That means there were more internet shutdowns in 2019 than ever before. In addition to India, shutdowns have taken place in Iraq, Sudan, Venezuela, Algeria, Indonesia, Chad, Sri Lanka, the Democratic Republic of the Congo, Ethiopia, Zimbabwe, Mauritania, Pakistan, Egypt, Kazakhstan, Benin, Gabon, Eritrea, and Liberia. Just this month, press reports suggested outages in Iran during protests over the downing of a Ukrainian plane, on the heels of a blackout last year after the price of fuel went up.

The reasons governments give for these blackouts are growing familiar. They seek to suppress protests, censor political rivals, prevent rumors from spreading, or activists from organizing. They are sometimes described as a way to stop students from cheating on exams. They often take place just before and after important elections.

There is little evidence that these bans work. In fact, recent history suggests that when states cut off internet access to prevent protest, just the opposite can occur. Moreover, researchers have found that in many countries electoral fraud and violence were higher during elections in which an internet shutdown took place.

These bans are also costly. Top10VPN has tallied the global economic cost of shutdowns at $8 billion and growing.

In addition, these shutdowns can threaten human rights. In 2016, the United Nations amended article 19 of the Universal Declaration of Human Rights, adding the promotion, protection, and enjoyment of human rights on the internet. That same year, the world's highest human rights body—the United Nations Human Rights Council—unanimously condemned internet shutdowns. What these bodies saw was that access to the internet is not only an issue of democracy and human rights, it is an essential tool for gathering and spreading information about human rights abuses.

Despite these truths, internet shutdowns are being normalized in many parts of the world. That means too many people fighting uphill battles to be able to use technology to expand economic opportunity, express themselves, and organize without fear of reprisal. These shutdowns are not just the instruments of authoritarian regimes, they have been used by democracies trying to tackle problems, too. This means freedom is being curtailed by the very tools that a decade ago we believed would liberate us.

Now if you are thinking this does not concern you because all of this is happening a world away, I understand. After all, the shutdown in the Kashmir Valley followed from the state invoking the Indian Telegraph Act of 1885, a law that dates to the British colonial era. Moreover, a few weeks ago Indian courts ruled that an indefinite internet shutdown is an abuse of power—although that decision alone does not restore all service. So you might think this is at some distance from what could happen in the United States. But you might want to think again.

Here's why: take a look at the Communications Act of 1934. Back in 1942, Congress made changes to this law, specifically to Section 606 of Title 47 of the United States Code—or as it's better known, Section 706 of the Communications Act.

Section 706 allows the President to shut down or take control of "any facility or station for wire communication" if he proclaims "that there exists a state or threat of war involving the United States." With respect to wireless communications, suspending service is permitted not only in a "war or threat of war" but merely if there is a presidential proclamation of a "state of public peril" or simply a "disaster or other national emergency." There is no requirement in the law for the President to provide any advance notice to Congress.

This language here is undeniably broad. The power it describes is virtually unchecked. So maybe some context will help. The changes to this section of the law about wire communications were made within a month after the attack on Pearl Harbor. It was passed at a time when Congress was laser focused on developing new ways to protect our safety and security.

These are, of course, different days. Section 706 has not been directly applied to the internet. After all, back in 1942 "wire communication" meant telephone calls or telegrams. But remember the bulk of our communications laws date to 1934. They remain the framework for communications infrastructure and still guide our policy and practice. In fact, if you think this is the kind of statutory language that has already faded into the dustbin of history, take note: in a 2010 report the Senate concluded that Section 706 "gives the President the authority to take over wire communications in the United States and, if the President so chooses, shut a network down." So it remains true that if a sitting President wants to shut down the internet or selectively cut off a service, all it takes is an opinion from his Attorney General that Section 706 gives him the authority to do so.

That's alarming. Because if you believe there are unspoken norms that would prevent us from using Section 706 this way, let me submit to you that past practice may no longer be the best guide for future behavior. Norms are being broken all the time in Washington and relying on them to cabin legal interpretation is not the best way to go.

So I think we should be straightforward. We should acknowledge that internet shutdowns can stunt elections and the democratic process, threaten human rights, batter economies, and disrupt modern life.

Then we should get to work.

We can start in the United States by revisiting Section 706. The time has come for a modern assessment of this language, what it means, and what it should mean in the digital age. We can ask how this power squares with the constitution and ask what role there should be for the legislative and judicial branches. But we shouldn't stop there. The United States should develop a formal policy on government-directed internet shutdowns, informed by the experience of the State Department, National Telecommunications and Information Administration, and Federal Communications Commission. Then we should share this expertise in global fora so that we can work worldwide to reduce these outages.

Moreover, I think we need to have this discussion if we are committed to an open internet for all. Because without it our own laws could be contorted to support such outages. Because without it we can expect the number of government-directed internet shutdowns to grow. And because without it we could see what happened in Kashmir Valley happen in many more places in the world.

Thank you.